

**To:** Maguire, Charles[[maguire.charles@epa.gov](mailto:maguire.charles@epa.gov)]  
**Cc:** Dwyer, Stacey[[Dwyer.Stacey@epa.gov](mailto:Dwyer.Stacey@epa.gov)]  
**From:** Chiang, I-Jung[[O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP \(FYDIBOHF23SPDLT\)/CN=RECIPIENTS/CN=0D99EDF42C6D4C36B1AC220CE5C514EA-CHIANG, I-JUNG](mailto:I-Jung@epa.gov)]  
**Sent:** Wed 1/26/2022 10:40:57 PM (UTC)  
**Subject:** FW: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2  
[Working Draft - EPA letter to ADPCE January 2022 ijc comm.docx](#)

Good to go.

**I-Jung Chiang**  
U.S. EPA Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
214.665.2160  
469.243.7360 cell  
[chiang.i-jung@epa.gov](mailto:chiang.i-jung@epa.gov)

---

**From:** Rodrigues, Cecil <[rodrigues.cecil@epa.gov](mailto:rodrigues.cecil@epa.gov)>  
**Sent:** Wednesday, January 26, 2022 4:32 PM  
**To:** Chiang, I-Jung <[chiang.i-jung@epa.gov](mailto:chiang.i-jung@epa.gov)>  
**Cc:** Dwyer, Stacey <[Dwyer.Stacey@epa.gov](mailto:Dwyer.Stacey@epa.gov)>  
**Subject:** Re: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Ok to send.

Cecil Rodrigues  
Acting Deputy Regional Administrator  
EPA Region 6  
Cell: 215.266.2960  
Sent from my iPhone

On Jan 26, 2022, at 5:29 PM, Chiang, I-Jung <[chiang.i-jung@epa.gov](mailto:chiang.i-jung@epa.gov)> wrote:

Few edits attached. Water will need to send the letter before the commission meeting tomorrow.

**I-Jung Chiang**  
U.S. EPA Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
214.665.2160  
469.243.7360 cell  
[chiang.i-jung@epa.gov](mailto:chiang.i-jung@epa.gov)

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**From:** Maguire, Charles <[maguire.charles@epa.gov](mailto:maguire.charles@epa.gov)>  
**Sent:** Wednesday, January 26, 2022 1:30 PM  
**To:** Rodrigues, Cecil <[rodrigues.cecil@epa.gov](mailto:rodrigues.cecil@epa.gov)>  
**Cc:** Chiang, I-Jung <[chiang.i-jung@epa.gov](mailto:chiang.i-jung@epa.gov)>; Dwyer, Stacey <[Dwyer.Stacey@epa.gov](mailto:Dwyer.Stacey@epa.gov)>  
**Subject:** Fwd: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Is this ok to send.

Sent from my iPhone  
Begin forwarded message:

**From:** "Martinez, Maria" <Martinez.Maria@epa.gov>  
**Date:** January 24, 2022 at 4:27:46 PM CST  
**To:** "Maguire, Charles" <maguire.charles@epa.gov>  
**Cc:** "Rauscher, Leslie" <Rauscher.Leslie@epa.gov>, "Hill, Troy" <Hill.Troy@epa.gov>  
**Subject:** Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Charles,

The attached Word document contains the working draft of the response letter to the APCE&EC regarding the Rule 2 that will be discussed at the January 28, 2022 Commission Meeting. Also included are the two enclosures that are referenced in our letter. The letter was drafted by the Branch staff and Renea. Do you want to send it directly to Lilian Dorka for input? Renea recommends cc'ing Marcia Moncrieffe in the email to Lilian.

We stand by for next steps.

Maria

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**From:** Maguire, Charles <maguire.charles@epa.gov>  
**Sent:** Monday, January 24, 2022 9:15 AM  
**To:** Martinez, Maria <Martinez.Maria@epa.gov>  
**Cc:** Rauscher, Leslie <Rauscher.Leslie@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>  
**Subject:** RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Agree...

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**From:** Martinez, Maria <Martinez.Maria@epa.gov>  
**Sent:** Monday, January 24, 2022 9:14 AM  
**To:** Maguire, Charles <maguire.charles@epa.gov>  
**Cc:** Rauscher, Leslie <Rauscher.Leslie@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>  
**Subject:** RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Renea and the rest of us recommend sending a letter similar to what we sent in August restating our position on Rule 2 and the necessary protections for Mossy Lake and Coffee Creek. Rob and Mike Schaub are working on it. We are using the August letter as a template and updating it...including a cc to Lilian Dorka. We will make sure to circulate it to ECRCO for input. We plan to have a draft to circulate by COB, Tuesday, 1/25.

---

**From:** Maguire, Charles <maguire.charles@epa.gov>  
**Sent:** Monday, January 24, 2022 8:26 AM  
**To:** Martinez, Maria <Martinez.Maria@epa.gov>  
**Subject:** RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Should we send anything?

---

**From:** Martinez, Maria <Martinez.Maria@epa.gov>  
**Sent:** Monday, January 24, 2022 8:23 AM  
**To:** Maguire, Charles <maguire.charles@epa.gov>  
**Subject:** RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Got it

**From:** Maguire, Charles <[maguire.charles@epa.gov](mailto:maguire.charles@epa.gov)>  
**Sent:** Monday, January 24, 2022 8:19 AM  
**To:** Martinez, Maria <[Martinez.Maria@epa.gov](mailto:Martinez.Maria@epa.gov)>  
**Cc:** Hill, Troy <[Hill.Troy@epa.gov](mailto:Hill.Troy@epa.gov)>; Rauscher, Leslie <[Rauscher.Leslie@epa.gov](mailto:Rauscher.Leslie@epa.gov)>  
**Subject:** FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

fyi

---

**From:** Khan, Zahra <[Khan.Zahra@epa.gov](mailto:Khan.Zahra@epa.gov)>  
**Sent:** Tuesday, January 18, 2022 8:06 AM  
**To:** Covington, Jeryl <[Covington.Jeryl@epa.gov](mailto:Covington.Jeryl@epa.gov)>; Maguire, Charles <[maguire.charles@epa.gov](mailto:maguire.charles@epa.gov)>; Ryland, Renea <[Ryland.Renea@epa.gov](mailto:Ryland.Renea@epa.gov)>  
**Cc:** Moncrieffe, Marcia <[Moncrieffe.Marcia@epa.gov](mailto:Moncrieffe.Marcia@epa.gov)>; Hoang, Anhthu <[Hoang.Anhthu@epa.gov](mailto:Hoang.Anhthu@epa.gov)>  
**Subject:** FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

FYI, I have received the following from DEQ rep, Basic Hicks.

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**From:** Hicks, Basil <[hicks@adeq.state.ar.us](mailto:hicks@adeq.state.ar.us)>  
**Sent:** Friday, January 14, 2022 12:50 PM  
**To:** Khan, Zahra <[Khan.Zahra@epa.gov](mailto:Khan.Zahra@epa.gov)>  
**Subject:** FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Zahra,

I am forwarding this to you to keep you up to date on this matter.

Please let me know if you have any questions or if you would like to talk.

Thank you,

**Basil V. Hicks III** | Attorney Supervisor  
**Energy and Environment** | Office of Chief Counsel  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.682.0884 | e: [hicks@adeq.state.ar.us](mailto:hicks@adeq.state.ar.us)

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**From:** McAlister, Michael  
**Sent:** Friday, January 14, 2022 10:23 AM  
**To:** Moulton, Charles; Goff, Patricia  
**Cc:** Hicks, Basil; York, Alan; Alberg, Peter  
**Subject:** APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Judge Moulton and Secretary Goff,  
DEQ respectfully requests that consideration of DEQ's pending motion to adopt proposed changes to Rule 2 ( filed in the above-referenced docket on 08/09/2021, with Exhibits B-1, C-1, and C-2 as filed on 11/24/2021) be placed on the agenda for decision at the Commission's next upcoming meeting on January 28, 2022.

DEQ also submits a revised Proposed Minute Order (Exhibit F, attached hereto) to replace the previously submitted proposals and to be included as part of the submission for consideration and approval.

Please be advised that DEQ is providing notice of this request to Charles W. Maguire, Director – Water Division, EPA Region 6.

Please contact me if you have any questions regarding this request.

Thank you,

**Michael McAlister** | Deputy Chief Counsel

ED\_006641\_00001156-00003

Energy and Environment | Office of Chief Counsel  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.682.0918 | e: [mcalist@adeq.state.ar.us](mailto:mcalist@adeq.state.ar.us)

**To:** Maguire, Charles[maguire.charles@epa.gov]  
**From:** Martinez, Maria[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA]  
**Sent:** Wed 1/26/2022 11:14:19 PM (UTC)  
**Subject:** January 28, 2022 APC&E Commission Meeting - U.S. EPA's Position Regarding DEQ's Rule 2  
[MARTINEZ 8 23 2021 APCEC Roper ltr Admin determination 8.23.21.pdf](#)  
[EXHIBIT F - Proposed Minute Order-updated-20220114.pdf](#)  
[MARTINEZ 1 26 2022 EPA Letter to APCEE Commission Regarding DEQ Rule 2 January 26 2022.pdf](#)

To:

[comment@adeq.state.ar.us](mailto:comment@adeq.state.ar.us)

cc's:

[moulton@adeq.state.ar.us](mailto:moulton@adeq.state.ar.us)  
[alan.york@adeq.state.ar.us](mailto:alan.york@adeq.state.ar.us)  
[keogh@adeq.state.ar.us](mailto:keogh@adeq.state.ar.us)  
[Dorka.lilian@epa.gov](mailto:Dorka.lilian@epa.gov)

Dear Mr. Roper,

The U.S. Environmental Protection Agency submits the attached letter in regards to the Division of Environmental Quality's submittal to the Commission regarding Rule 2. The letter restates the EPA's concerns with Rule 2 and follows our previous August 23, 2021, letter expressing the same.

Charles

**To:** Maguire, Charles[maguire.charles@epa.gov]  
**From:** Martinez, Maria[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA]  
**Sent:** Mon 1/31/2022 6:53:15 PM (UTC)  
**Subject:** RE: January 28, 2022 APC&E Commission Meeting - U.S. EPA's Position Regarding DEQ's Rule 2

Got it...

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**From:** Maguire, Charles <maguire.charles@epa.gov>  
**Sent:** Monday, January 31, 2022 12:52 PM  
**To:** Martinez, Maria <Martinez.Maria@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>  
**Cc:** Hill, Troy <Hill.Troy@epa.gov>; Rauscher, Leslie <Rauscher.Leslie@epa.gov>; Hayes, Mark <hayes.mark@epa.gov>; Cook, Robert <Cook.Robert@epa.gov>; Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Khan, Zahra <Khan.Zahra@epa.gov>  
**Subject:** RE: January 28, 2022 APC&E Commission Meeting - U.S. EPA's Position Regarding DEQ's Rule 2

Unless a response is necessary I think I will just not reply.

---

**From:** Martinez, Maria <Martinez.Maria@epa.gov>  
**Sent:** Monday, January 31, 2022 12:51 PM  
**To:** Maguire, Charles <maguire.charles@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>  
**Cc:** Hill, Troy <Hill.Troy@epa.gov>; Rauscher, Leslie <Rauscher.Leslie@epa.gov>; Hayes, Mark <hayes.mark@epa.gov>; Cook, Robert <Cook.Robert@epa.gov>; Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Khan, Zahra <Khan.Zahra@epa.gov>  
**Subject:** RE: January 28, 2022 APC&E Commission Meeting - U.S. EPA's Position Regarding DEQ's Rule 2

Charles,

We discussed the situation and at most we recommend replying to Mr. Moulton thanking him for the notification.

Maria

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**From:** Maguire, Charles <maguire.charles@epa.gov>  
**Sent:** Monday, January 31, 2022 10:02 AM  
**To:** Martinez, Maria <Martinez.Maria@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>  
**Cc:** Hill, Troy <Hill.Troy@epa.gov>; Rauscher, Leslie <Rauscher.Leslie@epa.gov>; Hayes, Mark <hayes.mark@epa.gov>; Cook, Robert <Cook.Robert@epa.gov>; Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Khan, Zahra <Khan.Zahra@epa.gov>  
**Subject:** FW: January 28, 2022 APC&E Commission Meeting - U.S. EPA's Position Regarding DEQ's Rule 2

Let me know if I should respond to this email.

---

**From:** Moulton, Charles <MOULTON@adeq.state.ar.us>  
**Sent:** Monday, January 31, 2022 9:53 AM  
**To:** Maguire, Charles <maguire.charles@epa.gov>  
**Cc:** Richard Roper <rroper@bartonandroper.com>  
**Subject:** RE: January 28, 2022 APC&E Commission Meeting - U.S. EPA's Position Regarding DEQ's Rule 2

Mr. Maguire –

I'm sure you are already aware but this past Friday the PC&E Commission did adopt a minute order finalizing DEQ's proposed amendments to Rule 2 with the addition of certain date-specific caveats included.

A cope of that minute order can be found at the link below.

[https://www.adeq.state.ar.us/downloads/commission/minute\\_orders/22-01 Adoption of Revisions Rule No 2\(Water Quality Standards\).pdf](https://www.adeq.state.ar.us/downloads/commission/minute_orders/22-01_Adoption_of_Revisions_Rule_No_2(Water_Quality_Standards).pdf)

During last Friday's meeting DEQ staff also informed the Commission that they intend to ask the Commission to initiate another Rule 2 Triennial Review within the next sixty (60) days and that this review will include standards for Mossy Lake and Coffee Creek.

Respectfully,

**Charles Moulton** | Administrative Law Judge  
**Energy & Environment** | Pollution Control & Ecology Commission  
3800 Richards Road | North Little Rock, AR 72117  
t: 501.682.7890 | f: 501.682.7891 | e: [moulton@adeq.state.ar.us](mailto:moulton@adeq.state.ar.us)  
[www.adeq.state.ar.us/commission/](http://www.adeq.state.ar.us/commission/)



**ARKANSAS**  
ENERGY & ENVIRONMENT

---

**From:** Maguire, Charles [<mailto:maguire.charles@epa.gov>]

**Sent:** Wednesday, January 26, 2022 5:18 PM

**To:** Public Comment; Public Comment

**Cc:** Moulton, Charles; York, Alan; Keogh, Becky; Dorka, Lilian; Hill, Troy; Rauscher, Leslie; Martinez, Maria

**Subject:** January 28, 2022 APC&E Commission Meeting - U.S. EPA's Position Regarding DEQ's Rule 2

Dear Mr. Roper,

The U.S. Environmental Protection Agency submits the attached letter in regards to the Division of Environmental Quality's submittal to the Commission regarding Rule 2. The letter restates the EPA's concerns with Rule 2 and follows our previous August 23, 2021, letter expressing the same.

Thank you,

Charles Maguire

US EPA Region 6 Water Division Director

**To:** Maguire, Charles[maguire.charles@epa.gov]  
**Cc:** Nelson, Russell[nelson.russell@epa.gov]; Wassell, Stacie[wassell@adeq.state.ar.us]; Martin, Joe[Joe.Martin@adeq.state.ar.us]; Hicks, Basil[hicks@adeq.state.ar.us]  
**From:** York, Alan[alan.york@adeq.state.ar.us]  
**Sent:** Thur 10/7/2021 3:49:21 PM (UTC)  
**Subject:** RE: ADEQ proposal of Rule 2 to the Commission

Charles,

Joe Martin passed the attached email along to make me aware of the communication with Region 6 staff. I can confirm that we will not be proceeding with the proposed Rule 2 revisions at the October 22 hearing. At this point, the intention is to proceed at the December 3<sup>rd</sup> hearing.

I feel it would be beneficial for EPA Region 6 and DEQ to have a discussion about the Rule 2 revisions and DEQ's intent with those revisions. I think there is some misunderstanding by Region 6 staff of DEQ's position on the revision, and I think there is, at the least, an incomplete understanding by DEQ of the position EPA has taken in this matter. We would like the opportunity to explain our position, and the basis for our position, at the earliest convenient time. Likewise, we would like the opportunity to hear more about Region 6's position in the matter. I believe DEQ and EPA's goals are similar, and that a discussion between staffs can be helpful as we move forward.

I would like DEQ OWQ staff and Region 6 staff to have a virtual meeting the week of October 18. Looking at DEQ calendars, the morning of the 18<sup>th</sup>, morning of the 20<sup>th</sup>, or afternoon of the 20<sup>th</sup> are the most open at this point. If those times do not work for Region 6 staff, please let me know and we will be as adaptable as possible.

I intend to include the following DEQ staff:

Stacie Wassell, Deputy Associate Director DEQ-OWQ  
Joe Martin, Branch Manager - Water Quality Planning DEQ-OWQ  
Basil Hicks, E&E - Office of Chief Counsel

Please feel free to get in touch if you would like to discuss.

Thanks,

**Alan J. York** | Associate Director  
**Division of Environmental Quality | Office of Water Quality**  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.683.6372 | e: [Alan.York@adeq.state.ar.us](mailto:Alan.York@adeq.state.ar.us)



**ARKANSAS**  
ENERGY & ENVIRONMENT

---

**From:** Martin, Joe  
**Sent:** Wednesday, October 6, 2021 2:46 PM  
**To:** York, Alan <[alan.york@adeq.state.ar.us](mailto:alan.york@adeq.state.ar.us)>  
**Subject:** FW: ADEQ proposal of Rule 2 to the Commission

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**From:** Nelson, Russell [<mailto:nelson.russell@epa.gov>]  
**Sent:** Wednesday, October 6, 2021 12:48 PM  
**To:** Martin, Joe; Barnett, Mary  
**Subject:** ADEQ proposal of Rule 2 to the Commission



Hi Joe and Mary.

I have been in contact with Charles Moulton, the Admin. Law Judge for the Commission regarding my (and as it turns out, potentially attorney's for EPA's External Civil Rights Compliance Office) remote attendance at the upcoming meeting with the expectation that DEQ was intending to ask the Commission to adopt proposed amendments to Rule 2 at their October 22<sup>nd</sup> meeting. Mr. Moulton relayed to me that he was informed this morning that DEQ not intend to ask the Commission to adopt proposed amendments to Rule 2 at the upcoming meeting. Can y'all confirm that? Does DEQ intended to move forward with asking the Commission to adopt revisions in the next scheduled Commission meeting on December 3<sup>rd</sup> ?

I appreciate any information you can relay.

Regards,

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

Cell (972) 310-1539  
(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent." B. Ruckelshaus*

**To:** Maguire, Charles[maguire.charles@epa.gov]  
**From:** York, Alan[alan.york@adeq.state.ar.us]  
**Sent:** Thur 10/7/2021 4:32:53 PM (UTC)  
**Subject:** RE: ADEQ proposal of Rule 2 to the Commission

Charles,

I wanted our staffs to meet before the larger meeting that is being contemplated. I believe we can identify, and hopefully solve, many of the individual sticking points prior to the larger meeting. DEQ leadership is aware that I am attempting to continue the discussion during this interim period.

Thanks,

**Alan J. York** | Associate Director  
**Division of Environmental Quality | Office of Water Quality**  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.683.6372 | e: [Alan.York@adeq.state.ar.us](mailto:Alan.York@adeq.state.ar.us)



---

**From:** Maguire, Charles [mailto:maguire.charles@epa.gov]  
**Sent:** Thursday, October 7, 2021 11:06 AM  
**To:** York, Alan <alan.york@adeq.state.ar.us>  
**Cc:** Nelson, Russell <nelson.russell@epa.gov>; Wassell, Stacie <wassell@adeq.state.ar.us>; Martin, Joe <Joe.Martin@adeq.state.ar.us>; Hicks, Basil <hicks@adeq.state.ar.us>  
**Subject:** Re: ADEQ proposal of Rule 2 to the Commission

Thanks  
I think a meeting is in planning stage

Sent from my iPhone

On Oct 7, 2021, at 10:51 AM, York, Alan <[alan.york@adeq.state.ar.us](mailto:alan.york@adeq.state.ar.us)> wrote:

Charles,

Joe Martin passed the attached email along to make me aware of the communication with Region 6 staff. I can confirm that we will not be proceeding with the proposed Rule 2 revisions at the October 22 hearing. At this point, the intention is to proceed at the December 3<sup>rd</sup> hearing.

I feel it would be beneficial for EPA Region 6 and DEQ to have a discussion about the Rule 2 revisions and DEQ's intent with those revisions. I think there is some misunderstanding by Region 6 staff of DEQ's position on the revision, and I think there is, at the least, an incomplete understanding by DEQ of the position EPA has taken in this matter. We would like the opportunity to explain our position, and the basis for our position, at the earliest convenient time. Likewise, we would like the opportunity to hear more about Region 6's position in the matter. I believe DEQ and EPA's goals are similar, and that a discussion between staffs can be helpful as we move forward.

I would like DEQ OWQ staff and Region 6 staff to have a virtual meeting the week of October 18. Looking at DEQ calendars, the morning of the 18<sup>th</sup>, morning of the 20<sup>th</sup>, or afternoon of the 20<sup>th</sup> are the most open at this point. If

those times do not work for Region 6 staff, please let me know and we will be as adaptable as possible.

I intend to include the following DEQ staff:

Stacie Wassell, Deputy Associate Director DEQ-OWQ  
Joe Martin, Branch Manager - Water Quality Planning DEQ-OWQ  
Basil Hicks, E&E - Office of Chief Counsel

Please feel free to get in touch if you would like to discuss.

Thanks,

**Alan J. York** | Associate Director  
**Division of Environmental Quality | Office of Water Quality**  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.683.6372 | e: [Alan.York@adeq.state.ar.us](mailto:Alan.York@adeq.state.ar.us)  
<image001.png>

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**From:** Martin, Joe  
**Sent:** Wednesday, October 6, 2021 2:46 PM  
**To:** York, Alan <[alan.york@adeq.state.ar.us](mailto:alan.york@adeq.state.ar.us)>  
**Subject:** FW: ADEQ proposal of Rule 2 to the Commission

---

**From:** Nelson, Russell [<mailto:nelson.russell@epa.gov>]  
**Sent:** Wednesday, October 6, 2021 12:48 PM  
**To:** Martin, Joe; Barnett, Mary  
**Subject:** ADEQ proposal of Rule 2 to the Commission

Hi Joe and Mary.

I have been in contact with Charles Moulton, the Admin. Law Judge for the Commission regarding my (and as it turns out, potentially attorney's for EPA's External Civil Rights Compliance Office) remote attendance at the upcoming meeting with the expectation that DEQ was intending to ask the Commission to adopt proposed amendments to Rule 2 at their October 22<sup>nd</sup> meeting. Mr. Moulton relayed to me that he was informed this morning that DEQ not intend to ask the Commission to adopt proposed amendments to Rule 2 at the upcoming meeting. Can y'all confirm that? Does DEQ intended to move forward with asking the Commission to adopt revisions in the next scheduled Commission meeting on December 3<sup>rd</sup> ?

I appreciate any information you can relay.

Regards,

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

Cell (972) 310-1539  
(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent." B. Ruckelshaus*

**To:** Maguire, Charles[maguire.charles@epa.gov]  
**From:** Gray, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=881C62B1E54142388C1DE2F8E3799C33-GRAY, DAVID]  
**Sent:** Thur 10/7/2021 5:38:39 PM (UTC)  
**Subject:** Re: ADEQ proposal of Rule 2 to the Commission

yes

David Gray  
Acting Regional Administrator  
EPA Region 6 - Arkansas, Louisiana, New Mexico, Oklahoma, Texas  
214-665-8120 o  
214-789-2619 c

On Oct 7, 2021, at 12:00 PM, Maguire, Charles <maguire.charles@epa.gov> wrote:

Should I do a meeting?

Sent from my iPhone

Begin forwarded message:

**From:** "York, Alan" <alan.york@adeq.state.ar.us>  
**Date:** October 7, 2021 at 11:34:11 AM CDT  
**To:** "Maguire, Charles" <maguire.charles@epa.gov>  
**Subject:** RE: ADEQ proposal of Rule 2 to the Commission

Charles,

I wanted our staffs to meet before the larger meeting that is being contemplated. I believe we can identify, and hopefully solve, many of the individual sticking points prior to the larger meeting. DEQ leadership is aware that I am attempting to continue the discussion during this interim period.

Thanks,

**Alan J. York** | Associate Director  
**Division of Environmental Quality | Office of Water Quality**  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.683.6372 | e: [Alan.York@adeq.state.ar.us](mailto:Alan.York@adeq.state.ar.us)  
<image001.png>

---

**From:** Maguire, Charles [mailto:maguire.charles@epa.gov]  
**Sent:** Thursday, October 7, 2021 11:06 AM  
**To:** York, Alan <alan.york@adeq.state.ar.us>  
**Cc:** Nelson, Russell <nelson.russell@epa.gov>; Wassell, Stacie <wassell@adeq.state.ar.us>; Martin, Joe <Joe.Martin@adeq.state.ar.us>; Hicks, Basil <hicks@adeq.state.ar.us>  
**Subject:** Re: ADEQ proposal of Rule 2 to the Commission

Thanks

I think a meeting is in planning stage

Sent from my iPhone

On Oct 7, 2021, at 10:51 AM, York, Alan <[alan.york@adeq.state.ar.us](mailto:alan.york@adeq.state.ar.us)> wrote:

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**Subject:** FW: ADEQ proposal of Rule 2 to the Commission

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**Sent:** Wednesday, October 6, 2021 12:48 PM  
**To:** Martin, Joe; Barnett, Mary  
**Subject:** ADEQ proposal of Rule 2 to the Commission

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I appreciate any information you can relay.

Regards,

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
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Dallas, TX 75270

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[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

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*B. Ruckelshaus*

**To:** Maguire, Charles[maguire.charles@epa.gov]  
**From:** Tanimura, Erin[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5FEE2EB2F0B94E399F5F587E1D93E802-TANIMURA, E]  
**Sent:** Thur 10/7/2021 6:00:44 PM (UTC)  
**Subject:** RE: ADEQ proposal of Rule 2 to the Commission

Hi Charles – wanted to check if you’re good on this one now.

Erin

---

**From:** Maguire, Charles <maguire.charles@epa.gov>  
**Sent:** Thursday, October 7, 2021 12:38 PM  
**To:** Tanimura, Erin <Tanimura.Erin@epa.gov>  
**Subject:** Fwd: ADEQ proposal of Rule 2 to the Commission

I haven’t heard back from David. Should I call?

Sent from my iPhone  
Begin forwarded message:

**From:** "Maguire, Charles" <maguire.charles@epa.gov>  
**Date:** October 7, 2021 at 12:00:45 PM CDT  
**To:** "Gray, David" <gray.david@epa.gov>  
**Subject:** Fwd: ADEQ proposal of Rule 2 to the Commission

Should I do a meeting?

Sent from my iPhone  
Begin forwarded message:

**From:** "York, Alan" <alan.york@adeq.state.ar.us>  
**Date:** October 7, 2021 at 11:34:11 AM CDT  
**To:** "Maguire, Charles" <maguire.charles@epa.gov>  
**Subject:** RE: ADEQ proposal of Rule 2 to the Commission

Charles,

I wanted our staffs to meet before the larger meeting that is being contemplated. I believe we can identify, and hopefully solve, many of the individual sticking points prior to the larger meeting. DEQ leadership is aware that I am attempting to continue the discussion during this interim period.

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**ARKANSAS**  
ENERGY & ENVIRONMENT



---

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**To:** York, Alan <[alan.york@adeq.state.ar.us](mailto:alan.york@adeq.state.ar.us)>

**Cc:** Nelson, Russell <[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)>; Wassell, Stacie <[wassell@adeq.state.ar.us](mailto:wassell@adeq.state.ar.us)>; Martin, Joe <[Joe.Martin@adeq.state.ar.us](mailto:Joe.Martin@adeq.state.ar.us)>; Hicks, Basil <[hicks@adeq.state.ar.us](mailto:hicks@adeq.state.ar.us)>

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<image001.png>

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**Sent:** Wednesday, October 6, 2021 2:46 PM

ED\_006641\_00001169-00002

**To:** York, Alan <[alan.york@adeq.state.ar.us](mailto:alan.york@adeq.state.ar.us)>  
**Subject:** FW: ADEQ proposal of Rule 2 to the Commission

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**From:** Nelson, Russell [<mailto:nelson.russell@epa.gov>]  
**Sent:** Wednesday, October 6, 2021 12:48 PM  
**To:** Martin, Joe; Barnett, Mary  
**Subject:** ADEQ proposal of Rule 2 to the Commission

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I appreciate any information you can relay.

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*B. Ruckelshaus*

**To:** Maguire, Charles[maguire.charles@epa.gov]  
**Cc:** Martinez, Maria[Martinez.Maria@epa.gov]; Berry, Natalie[Berry.Natalie@epa.gov]  
**From:** York, Alan[alan.york@adeq.state.ar.us]  
**Sent:** Thur 10/7/2021 6:17:35 PM (UTC)  
**Subject:** RE: ADEQ proposal of Rule 2 to the Commission

Natalie can coordinate with me. In light of me being unaware that DEQ leadership was aiming for an in-person meeting that same week, I apologize. I was mistakenly under the impression they were aiming for a later timeframe.

Thanks,

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**From:** Maguire, Charles [mailto:maguire.charles@epa.gov]  
**Sent:** Thursday, October 7, 2021 12:56 PM  
**To:** York, Alan <alan.york@adeq.state.ar.us>  
**Cc:** Martinez, Maria <Martinez.Maria@epa.gov>; Berry, Natalie <Berry.Natalie@epa.gov>  
**Subject:** Re: ADEQ proposal of Rule 2 to the Commission

Ok with us - so can I get Natalie to work with someone in your shop to set it up?

Sent from my iPhone

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**Sent:** Thur 10/7/2021 6:22:13 PM (UTC)  
**Subject:** FW: ADEQ proposal of Rule 2 to the Commission

Do you want Richard, Russell, and me to plan on attending the “Alan” meeting?

---

**From:** York, Alan <alan.york@adeq.state.ar.us>  
**Sent:** Thursday, October 7, 2021 1:18 PM  
**To:** Maguire, Charles <maguire.charles@epa.gov>  
**Cc:** Martinez, Maria <Martinez.Maria@epa.gov>; Berry, Natalie <Berry.Natalie@epa.gov>  
**Subject:** RE: ADEQ proposal of Rule 2 to the Commission

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**From:** Moncrieffe, Marcia[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEE0FF61229A4D2C9B85D3D2EC0CD52F-MONCRIEFFE, MARCIA]  
**Sent:** Thur 10/14/2021 1:37:21 PM (UTC)  
**Subject:** RE: ADEQ call yesterday  
[2021.01.08 Final ADEQ Recip Resolution Ltr and IRA 27R-16-R6.pdf](#)  
[Georgia Pacific - We Care Briefing Sheet for RA425.docx](#)

Charles,

The last briefing sheet I prepared was comprehensive and is attached.

I have also copied for you the informal resolution agreement. Please see attached.

I will not be responsive on this topic until this afternoon because I am currently preparing a briefing sheet on another matter for David and I have several calls in the interim. So I hope the attachments provided are helpful.

Marcia

-----Original Message-----

From: Maguire, Charles <[maguire.charles@epa.gov](mailto:maguire.charles@epa.gov)>  
Sent: Thursday, October 14, 2021 8:27 AM  
To: Moncrieffe, Marcia <[Moncrieffe.Marcia@epa.gov](mailto:Moncrieffe.Marcia@epa.gov)>  
Subject: RE: ADEQ call yesterday

Do you have a briefing paper that can be shared on the Title VI complaint and what they agreed to... I don't have anything that is brief. Not suggesting one be prepared but thinking their might be one from some briefing with David. I'm trying to understand better the air quality connection.

-----Original Message-----

From: Moncrieffe, Marcia <[Moncrieffe.Marcia@epa.gov](mailto:Moncrieffe.Marcia@epa.gov)>  
Sent: Thursday, October 14, 2021 8:20 AM  
To: Maguire, Charles <[maguire.charles@epa.gov](mailto:maguire.charles@epa.gov)>  
Cc: Dorka, Lilian <[Dorka.Lilian@epa.gov](mailto:Dorka.Lilian@epa.gov)>; Hill, Troy <[Hill.Troy@epa.gov](mailto:Hill.Troy@epa.gov)>; Ryland, Renea <[Ryland.Renea@epa.gov](mailto:Ryland.Renea@epa.gov)>  
Subject: RE: ADEQ call yesterday

You are welcome.  
MM

-----Original Message-----

From: Maguire, Charles <[maguire.charles@epa.gov](mailto:maguire.charles@epa.gov)>  
Sent: Thursday, October 14, 2021 8:04 AM  
To: Moncrieffe, Marcia <[Moncrieffe.Marcia@epa.gov](mailto:Moncrieffe.Marcia@epa.gov)>  
Cc: Dorka, Lilian <[Dorka.Lilian@epa.gov](mailto:Dorka.Lilian@epa.gov)>; Hill, Troy <[Hill.Troy@epa.gov](mailto:Hill.Troy@epa.gov)>; Ryland, Renea <[Ryland.Renea@epa.gov](mailto:Ryland.Renea@epa.gov)>  
Subject: Re: ADEQ call yesterday

Good idea  
Thank you!

Sent from my iPhone

> On Oct 14, 2021, at 7:56 AM, Moncrieffe, Marcia <[Moncrieffe.Marcia@epa.gov](mailto:Moncrieffe.Marcia@epa.gov)> wrote:

>  
> PS:  
>  
> To my email sent earlier, I was not aware that ECRCO was on the call of yesterday. Therefore, this email serves as a revision to my email below.  
>  
> Lilian, if your office needs a follow-up from yesterday's call please let us know. Thanks and best for your today.  
>  
> Marcia  
>  
> -----Original Message-----  
> From: Moncrieffe, Marcia  
> Sent: Thursday, October 14, 2021 7:48 AM  
> To: Maguire, Charles <maguire.charles@epa.gov>  
> Cc: Dorka, Lilian <Dorka.Lilian@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>  
> Subject: RE: ADEQ call yesterday  
>  
> Good morning, Charles,  
>  
> Thanks for the follow-up.  
>  
> I would say it is always a good thing for us to provide and share a summary of the call with ECRCO (Lilian) so that the team there can be aware and strategize accordingly. Also, could you please copy me as well. Thanks.  
>  
> With kind regards,  
> Marcia  
>  
> -----Original Message-----  
> From: Maguire, Charles <maguire.charles@epa.gov>  
> Sent: Thursday, October 14, 2021 6:51 AM  
> To: Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>  
> Cc: Dorka, Lilian <Dorka.Lilian@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>  
> Subject: ADEQ call yesterday  
>  
> Marcia  
> Let me know if there is follow-up from yesterday's call that Lillian will need.  
> Thanks  
>  
> Sent from my iPhone

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL

January 8, 2021

**Via Email**

**EPA Complaint No. 27R-16-R6**

Becky Keogh  
Director  
Arkansas Division of Environmental Quality  
5301 Northshore Drive  
North Little Rock, AR 72118-5317  
keogh@adeq.state.ar.us

**Re: Resolution of EPA Complaint No. 27R-16-R6**

Dear Director Keogh:

This letter is to inform you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) is resolving this complaint based on the enclosed Informal Resolution Agreement ("Agreement") entered into between EPA and the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ). On June 28, 2016, EPA accepted for investigation a complaint against DEQ alleging discrimination on the basis of race and color in violation of Title VI of the Civil Rights Act of 1964 and EPA's nondiscrimination regulation, at 40 C.F.R. Part 7. The complaint was assigned EPA Complaint No. 27R-16-R6. Specifically, EPA accepted the following issue for investigation:

Whether DEQ discriminated against the predominately African American community of West Crossett, AR, on the bases of race and/or color in violation of Title VI of the Civil Rights Act, and EPA's implementing regulation, by allowing the administrative continuance of [Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES)] Permit No. AR0001210 (issued to Georgia-Pacific Crossett LLC, Crossett Paper Operations located at 100 Mill Supply Road, Crossett, AR 71635) that allegedly does not meet the standards of the Clean Water Act; and

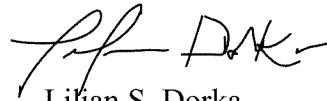
Whether DEQ discriminated against the predominately African American community of West Crossett, AR on the bases of race and/or color in violation of Title VI of the Civil Rights Act, and EPA's implementing regulation, by allowing the administrative continuance of NPDES Permit No. AR0001210 (issued to Georgia-Pacific Crossett LLC, Crossett Paper Operations located at 100 Mill Supply Road Crossett, AR 71635) that allegedly exposes the community to harmful emissions and that allegedly eliminates the use of Coffee Creek in violation of the Clean Water Act.

During the course of EPA's investigation, DEQ agreed to enter into the Agreement in order to resolve EPA Complaint No. 27R-16-R6. The enclosed Agreement is entered into by EPA pursuant to the authority granted to EPA under the federal nondiscrimination laws, including Title VI and 40 C.F.R. Part 7. It is understood that the Agreement does not constitute an admission by DEQ of any violation or a finding by EPA of compliance or noncompliance with applicable federal non-discrimination laws and regulation.

The enclosed Agreement does not affect DEQ's continuing responsibility under Title VI, 40 C.F.R. Parts 5 and 7, and other federal nondiscrimination laws, nor does it affect EPA's investigation of any Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement. This letter sets forth EPA's disposition of the complaint. This letter is not a formal statement of EPA policy and should not be relied upon, cited, or construed as such.

EPA is committed to working with DEQ as it implements the provisions of the Agreement. If you have any questions regarding this letter and the Agreement between EPA and DEQ, please contact me at (202)564-9649 or by e-mail at [dorka.lilian@epa.gov](mailto:dorka.lilian@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'L. S. Dorka' with a stylized flourish at the end.

Lilian S. Dorka

Director  
External Civil Rights Compliance Office  
Office of General Counsel

Enclosure:

cc: Angelia Talbert-Duarte  
Associate General Counsel  
Civil Rights & Finance Law Office

David Gray  
Deputy Regional Administrator  
Deputy Civil Rights Official  
US EPA Region 6

James McGuire  
Regional Counsel  
US EPA Region 6



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**WASHINGTON, D.C. 20460**

**EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL**

**INFORMAL RESOLUTION AGREEMENT  
between the  
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY  
and the  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
EPA Complaint No. 27R-16-R6**

**I. PURPOSE AND JURISDICTION**

- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI), and other federal nondiscrimination laws, and United States Environmental Protection Agency's (EPA) implementing regulations at 40 C.F.R. Parts 5 and 7, prohibit discrimination on the basis of race, color, national origin, disability, sex and age in the programs or activities of applicants for or recipients of federal financial assistance. The Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) receives financial assistance from EPA and, therefore, must ensure nondiscrimination in programs and activities pursuant to the provisions of Title VI, and other federal nondiscrimination laws, and EPA's implementing regulations.
- B. On June 28, 2016, EPA's External Civil Rights Compliance Office (ECRCO) accepted for investigation, EPA Complaint No. 27R-16-R6, brought under Title VI and EPA's regulation at 40 C.F.R. Part 7 that alleged discrimination based on race and color in violation of Title VI. EPA accepted for investigation the following issues:
1. Whether DEQ discriminated against the predominately African American community of West Crossett, AR, on the bases of race and/or color in violation of Title VI of the Civil Rights Act, and EPA's implementing regulation, by allowing the administrative continuance of [Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES)] Permit No. AR0001210 (issued to Georgia-Pacific Crossett LLC, Crossett Paper Operations located at 100 Mill Supply Road, Crossett, AR 71635) that allegedly does not meet the standards of the Clean Water Act; and
  2. Whether DEQ discriminated against the predominately African American community of West Crossett, AR on the bases of race and/or color in

violation of Title VI of the Civil Rights Act, and EPA's implementing regulation, by allowing the administrative continuance of NPDES Permit No. AR0001210 (issued to Georgia-Pacific Crossett LLC, Crossett Paper Operations located at 100 Mill Supply Road Crossett, AR 71635) that allegedly exposes the community to harmful emissions and that allegedly eliminates the use of Coffee Creek in violation of the Clean Water Act.

- C. During the course of ECRCO's investigation of Complaint No 27R-16-R6, DEQ agreed to enter into this Informal Resolution Agreement (Agreement). This Agreement is entered into pursuant to the authority granted EPA under the federal non-discrimination laws, including Title VI of the Civil Rights Act of 1964, and the EPA regulations found at 40 C.F.R. Parts 5 and 7, and resolves the issues accepted for investigation in EPA Complaint No. 27R-16-R6 and additional concerns identified by EPA.
- D. DEQ is committed to carrying out its responsibilities in a nondiscriminatory manner, in accordance with the requirements of Title VI, as well as the other federal non-discrimination laws enforced by EPA, and 40 C.F.R. Parts 5 and 7. The activities detailed in Sections III and IV of this Agreement which DEQ has voluntarily agreed to undertake and implement, are in furtherance of this commitment.
- E. This Agreement is entered into by DEQ and the EPA ECRCO.
- F. This Agreement does not constitute an admission by DEQ of a violation of, or a finding of compliance or noncompliance by EPA with, Title VI or 40 C.F.R. Parts 5 and 7.

## **II. BACKGROUND**

- A. EPA acknowledges that EPA issued NPDES Permit AR0001210 to Georgia-Pacific Crossett LLC in 1974, 1986, and 1991. DEQ first issued NPDES Permit AR0001210 to Georgia-Pacific Crossett LLC in 2004. DEQ maintains that it has continued to perform its obligations to monitor Georgia-Pacific Crossett LLC's compliance with its NPDES permit through inspections and reviews of Georgia-Pacific Crossett LLC's discharge monitoring reports.
- B. EPA acknowledges that prior to the acceptance of the subject complaint, EPA initiated enforcement actions against Georgia-Pacific LLC.
  - 1. Under its authority pursuant to the Clean Water Act<sup>1</sup>, on June 23, 2016, EPA entered into an administrative settlement with Georgia-Pacific LLC, a Delaware Company to address the facility's failing to utilize appropriate test procedures and follow Best Management Practices.<sup>2</sup>

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<sup>1</sup> Section 309(g) of the CWA, 33 U.S.C. §1319(g).

<sup>2</sup> United States Environmental Protection Agency, Region 6, Consent Agreement and Final Order, Docket No. CWA-06-2016-1735.

2. Under its authority pursuant to the Resource Conservation and Recovery Act (RCRA),<sup>3</sup> on August 25, 2016, EPA issued a Consent Agreement and Final Order to Georgia-Pacific LLC to address universal waste management practices, to comply with the hazardous waste manifest requirements, and to implement standard operating procedures for hazardous waste determinations.<sup>4</sup>
3. Under its authority pursuant to the Clean Air Act's (CAA) National Emission Standards for Hazardous Air Pollutants,<sup>5</sup> on September 26, 2016, EPA issued an Administrative Compliance Order on Consent to Georgia-Pacific Chemicals LLC due to improper operational performance testing.<sup>6</sup>
4. Under its authority pursuant to the Clean Air Act,<sup>7</sup> on January 9, 2017, EPA issued two (2) Administrative Orders on Consent to Georgia-Pacific LLC Chemicals, and Georgia-Pacific Crossett LLC to address violations of the Clean Air Act Risk Management Program regulations.<sup>8</sup>

C. Between 2014 and 2016, EPA, DEQ, and the Arkansas Department of Health (ADH) participated in community meetings in the City of Crossett, AR to address the following community concerns:

1. Exposure to hydrogen sulfide and overall air quality;
2. Drinking water contamination and the Georgia-Pacific wastewater treatment system;
3. Hazardous waste disposal on Georgia-Pacific property and within the community;
4. Long-term exposure to hazardous chemicals; and

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<sup>3</sup> Section 3008(a) of RCRA, 42 U.S.C. §6928 as amended by the Hazardous and Solid Waste Amendments of 1984; and 40 C.F.R. §§22.13(b) and 22.18(b)(2) and (3).

<sup>4</sup> United States Environmental Protection Agency, Region 6, Consent Agreement and Final Order, USEPA Docket No. RCRA-0602016-0909 entered into by the United States Environmental Protection Agency, Region 6 and Georgia-Pacific LLC located at 100 Mill Supply Road in Crossett, AR.

<sup>5</sup> 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(3).

<sup>6</sup> United States Environmental Protection Agency, Region 6, Administrative Compliance Order on Consent, Docket No. CAA-06-2016-3417 issued to Georgia-Pacific LLC located in Crossett, AR.

<sup>7</sup> Section 113(a)(3) of the CAA, 42 U.S.C. §7413(a)(3).

<sup>8</sup> United States Environmental Protection Agency, Region 6, Administrative Compliance Order on Consent, Docket No. CAA 06-2017-3304 and No. CAA 06-2017-3305 entered into by the United States Environmental Protection Agency, Region 6 and Georgia-Pacific LLC (GP Paper and GP Chemical, respectively) located in Crossett, AR.

5. Communication at the local and state levels.<sup>9</sup>

Through the DEQ and ADH partnership, a community action plan was drafted which included action items specific to the City of Crossett, AR.

([https://www.epa.gov/sites/production/files/2017-03/documents/qtrly\\_update\\_ar\\_ej\\_action\\_plan\\_1-26-17.pdf](https://www.epa.gov/sites/production/files/2017-03/documents/qtrly_update_ar_ej_action_plan_1-26-17.pdf)).

- D. DEQ's Water Quality Planning Branch manages the State's triennial review of water quality standards, the biennial Integrated Water Quality Monitoring and Assessment Report [CWA § 305(b) Report] and the List of Impaired Waterbodies [CWA § 303(d) List], and its Water Quality Monitoring Networks for surface water and groundwater. DEQ's Water Quality Planning Branch utilizes the data collected from its Water Quality Monitoring Networks for the triennial review of water quality standards, preparation of the CWA § 305(b) Report, establishing priority ranking of total maximum daily loads for impaired waterbodies,<sup>10</sup> developing water quality standards and criteria, evaluating the designated use attainments, and prioritizing restoration and remediation activities.<sup>11</sup>
- E. EPA Complaint No. 27R-16-R6 alleges that NPDES Permit No. AR0001210, issued to Georgia-Pacific Crossett LLC, is not a legal permit because it allows Georgia-Pacific Crossett LLC "to use the upper part of Coffee Creek as an extension of its facility and without meeting Clean Water Act requirements." The complaint states that "[t]he entire length of Coffee Creek from its headwaters to the Ouachita River is a navigable water as defined in the Clean Water Act at 33 U.S.C. § 1362(7) and is a water of the United States as defined in 40 C.F.R. § 122.2." The complaint describes "Coffee Creek" as follows:

[Coffee Creek] flows south from the Georgia Pacific facility approximately three miles to a dammed portion of the creek called Mill Pond. Coffee Creek then flows from the pond approximately another five miles to Mossy Lake. From Mossy Lake, Coffee Creek flows about a half of a mile to the Ouachita River at a point approximately two miles upstream from the Louisiana border.

Since 1973, the state of Arkansas's Water Quality Standards, as approved by EPA beginning in 1980,<sup>12</sup> identify Coffee Creek as a water of the state that does not have primary contact recreation and fishery uses.<sup>13</sup> DEQ acknowledges that there is existing

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<sup>9</sup> Action Plan and Chronology of Activities for the Community of Crossett; Ashley County, Arkansas; October 22, 2014; p. 1

<sup>10</sup> 40 C.F.R. § 130.8

<sup>11</sup> 40 C.F.R. § 130.7

<sup>12</sup> See Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas, dated March 27, 2020, <https://www.epa.gov/wqs-tech/water-quality-standards-regulations-arkansas#state>

<sup>13</sup> Arkansas Pollution Control and Ecology Commission, Regulation 2, Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas.



disagreement over whether the water of the state identified as “Coffee Creek” is clearly defined.

- F. On December 14, 2018, contemporaneously with the lodging of a Consent Decree, the United States, on behalf of EPA, and DEQ filed a Complaint in an action against Georgia Pacific Chemicals, and Georgia-Pacific Consumer Operations LLC (Settling Defendants) alleging that they violated Sections 113(b) and 112(r)(1) of the CAA, 42 U.S.C. §§ 7413(b) and 7412(r)(1) as well as Arkansas Code. Annotated §§ 8-4-103 et seq.<sup>14</sup>
- G. On February 7, 2019, EPA, DEQ, and Georgia-Pacific officials met with residents of Crossett, Arkansas for a public meeting to discuss the proposed Consent Decree. About three dozen Crossett residents and other concerned individuals attended.
- H. On June 4, 2019, Georgia-Pacific publicly announced the planned closure of the pulp manufacturing component (“Pulp Mill”), a significant part of the paper manufacturing facility in Crossett and a significant source of pollutant emissions. Because this planned closure would affect Georgia-Pacific’s ability to perform certain obligations under the original Consent Decree, the Parties negotiated the Amended Consent Decree and lodged it with the Court earlier this year. On February 7, 2020, the United States published notice of the Amended Consent Decree (ACD) in the Federal Register, 85 Fed. Reg. 7331 (Feb. 7, 2020).
- I. On May 18, 2020, the ACD was entered into by and between the United States of America, on behalf of the Environmental Protection Agency, DEQ, and the Settling Defendants. The ACD assessed a civil penalty in the sum of \$600,000, requires the facilities to comply with regulations, and implement supplemental environmental projects (SEPs) as outlined in the ACD. “Specifically, under the Amended Consent Decree, with the Permanent Shutdown of the Pulp Mill, Settling Defendants are required to pay civil penalties and perform certain supplemental environmental projects (“SEP”s) to reduce pollutant emissions.”<sup>15, 16</sup>
- J. As is ECRCO’s practice, during the course of this investigation, ECRCO reviewed DEQ’s policies and procedures regarding its foundational nondiscrimination program, including the procedural safeguards required by EPA’s non-discrimination regulation, public participation policies and procedures, as well as required policies and

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<sup>14</sup> *United States, et al. v. Georgia Pac. Chem., et al.*, Case No. 1:18-cv-01076-SOH (W.D. Ark. Dec. 14, 2018); Section I; p. 1.

<sup>15</sup> *United States, et al. v. Georgia Pac. Chem., et al.*, Case 1:18-cv-01076-SOH (W.D. Ark. May 18, 2020); Document 17-2, Page 9 of 24 Page ID #: 258; Section II; p. 5.

<sup>16</sup> A SEP is an environmentally beneficial project that a defendant agrees to undertake in settlement of an enforcement action, but that the defendant is not otherwise legally required to perform. See EPA, Supplemental Environmental Projects Policy (May 5, 1998) (“SEP Policy”), 63 Fed. Reg. 24796, 24797-98 (May 5, 1998). In the ACD, the Settling Defendants agree to provide a long-ladder fire truck to the City of Crossett Fire Department, implement a “Vacuum Pump SEP” to achieve pollution prevention or pollution reduction, and implement an Epichlorohydrin Storage SEP to reduce the potential for pollution and off-site consequences in the event of a spill of Epichlorohydrin from the GP Chemical Facility’s trailer-based storage system.

procedures to ensure continued and meaningful access to DEQ programs and activities for persons with disabilities and limited-English proficiency. During this review, DEQ has, with ECRCO's assistance, continued to enhance its existing policies and procedures. The details of this work will be addressed under a separate process, whereby EPA will provide continued technical assistance to DEQ on its ongoing improvement to its nondiscrimination program.

### **III. SPECIFIC DEQ COMMITMENTS**

- A. DEQ will respond to EPA's comments on Mossy Lake and Coffee Creek prior to its final submission of Rule 2 to the Arkansas Pollution Control and Ecology Commission for the current water quality standards triennial revisions. DEQ's response will address the reevaluation of appropriate designated uses specific to Coffee Creek and Mossy Lake consistent with the CWA and federal regulations and in compliance with Arkansas law.
- B. As part of DEQ's public participation process for the next interim or triennial review of water quality standards,<sup>17</sup> DEQ will include EPA and a participant to represent the West Crossett community as a member of the triennial review stakeholder work group.<sup>18</sup> DEQ's triennial review stakeholder work group provides a forum for public input on the development of revised water quality standards.
- C. To review Georgia-Pacific Crossett LLC's NPDES compliance status, DEQ will designate a specific task force to review Georgia Pacific's sampling and analysis including a review of the supporting lab results. As is DEQ's current process, DEQ will for two (2) years continue to review all wastewater sampling and analysis performed by Georgia-Pacific Crossett under the requirements of its NPDES permit. During the next twenty-four months, DEQ will request four (4) split samples from Georgia Pacific Crossett LLC to be sent to an accredited lab selected by DEQ and DEQ will witness the sampling event. DEQ will request that two of the four split samples include samples taken from the discharge from Mossy Lake in addition to the discharge from the Aeration Basin. DEQ will post the wastewater sampling analytical results on its website within 60 days of receipt of the analytics.
- D. DEQ will continue to work with ADH's Engineering Division that prepares and submits to EPA an annual report concerning the numbers and types of violations of the Safe Drinking Water Act regulations. ADH makes this report available to the Public through its website. ADH also makes available on its website the annual drinking water quality reports for all public water systems. These reports include

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<sup>17</sup> DEQ's next triennial review is anticipated to begin in or before 2024.

<sup>18</sup> The water quality workgroup is appointed by the Governor of Arkansas. Per the WQ Assessments (<https://www.adeg.state.ar.us/water/planning/integrated/assessment/pdfs/20161011-listening-session-presentation.pdf>), "Stakeholder Members include: Local, State, and Federal Government entities; Industrial, Municipal, and Utility entities; Conservation and Environmental entities, and 30 members invited by the Director." The stakeholder work group meetings are public meetings. Stakeholders are the point of contact. A listserv is used to inform the public/interested parties.

public water systems' reported monitoring data and explanation of contaminants of concerns in accordance with state and federal laws. The water quality data from all five (5) public water systems in the Crossett area can be found on ADH's website. ADH also provides drinking water information for each community public water system in Arkansas. DEQ will assist ADH, as appropriate, and provide a link on DEQ's website to these ADH resources within 60 days of the signing of this Agreement.

- E. DEQ will continue to work to finalize reissuance of the Georgia Pacific Crossett LLC NPDES permit to conform with the requirements of the CWA and federal regulations in concert with EPA (Region 6). If Georgia-Pacific Chemicals LLC and Georgia-Pacific Consumer Operations LLC must obtain federal or state permits for any compliance obligations under the Amended Consent Decree, DEQ will continue to work to finalize the issuance of those permits, as appropriate. DEQ will post the Georgia Pacific Crossett LLC NPDES permit application, and final permit on its website within 60 days of approving the NPDES permit.
- F. It is DEQ's and EPA's understanding that odor reductions, particularly those related to hydrogen sulfide and other sulfur compounds, will continue due to changes to and elimination of certain processes at the facility. DEQ will continue to encourage Georgia-Pacific Crossett LLC to institute BMPs and work with Georgia-Pacific Crossett LLC to authorize changes at the facility that reduce odor. As part of any proposed maintenance or changes at the facility's wastewater treatment system, DEQ will require the Georgia-Pacific Crossett LLC to submit an Odor Management Plan to address odor that could result from that work. DEQ will make that plan available to the public through DEQ's website and provide an opportunity for the community to participate in an informational meeting about the plan.
- G. DEQ will work with the Settling Defendants to implement the May 18, 2020 Amended Consent Decree's injunctive relief and SEPs. DEQ will post the semi-annual progress report on its website within 30 days of receipt.
- H. DEQ will provide periodic updates to the public about (1) the SEPs described in the May 18, 2020 ACD that was entered into by the United States of America, DEQ, and Settling Defendants; (2) the Settling Defendants' compliance status, and (3) any information provided to DEQ by ADH that identifies health concerns for Crossett citizens. DEQ will continue to evaluate, according to their EPA-approved Compliance Monitoring Strategy, the Georgia-Pacific, LLC Crossett, AR facility's industrial processes, management of waste streams, and compliance of permitted operations, conduct appropriate multi-media inspections, and provide updates to the community regarding the facility's environmental performance. DEQ's first update will include information about how the changes at the facility have eliminated many of the sources that could contribute to the odor and air quality concerns expressed by the residents of Crossett. DEQ will submit this first update within 180 days of the signing of this Agreement, and DEQ will present this first update to the community at

the next meeting of the Arkansas Pollution Control and Ecology Commission that occurs after the update has been submitted.

- I. To further promote public engagement during permitting processes, within 180 days of the signing of this Agreement, DEQ will develop an Email List Subscription (hyperlink sign-up function or radio button) for notices related to Georgia-Pacific Crossett LLC to ensure the interested party receives notification in advance of public meetings, and the interested party receives same day notice of the opening of a public comment period and a minimum of 30-days advance notice of any public hearing on any proposed permitting action.
- J. Within 180 days of the signing of this Agreement, DEQ will develop online tutorials on how to access permitting information and monitoring data through its website and on the utilization of the DEQ reporting application for mobile devices.
- K. Within 180 days of signing the Agreement, DEQ will request that the Arkansas Department of Emergency Management (ADEM) facilitate community training and public safety awareness for the City of Crossett, AR. DEQ will request ADEM to coordinate with the City of Crossett to promote the utilization of the Integrated Public Alert & Warning System (IPAWS) [components of IPAWS: Emergency Alert System (EAS), Wireless Emergency Alerts (WEA), and National Oceanic and Atmospheric Administration (NOAA)]. DEQ will provide periodic updates on its activities related to its communication with ADEM.
- L. Within 180 days of the signing of this Agreement, DEQ will request that ADEM help Ashley County to bolster its local emergency planning committee (LEPC). DEQ will provide technical assistance and guidance to Ashley County, as appropriate. DEQ will provide periodic updates on its activities related to its communication with ADEM.
- M. To enhance protections in the community, within 180 days of the signing of this Agreement, DEQ will encourage Georgia-Pacific to work with ADEM and Ashley County through its public/private partnership program to assist with the planning and preparedness for, or mitigate damages resulting from man-made or natural disasters.

#### **IV. GENERAL**

- A. In consideration of DEQ's implementation of commitments and actions described in Section III of this Agreement, EPA will end its investigation of the complaint in EPA Complaint No. 27R-16-R6 and not issue a decision containing findings on the merits of this complaint.
- B. EPA will, upon request, provide technical assistance to DEQ regarding any of the civil rights obligations previously referenced.

- C. Within 60 days of completion, DEQ will document to EPA the completion status of each commitment identified under Section III A-L consistent with the timeframes in Section III A-L by certified mail to the Director, EPA External Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue N.W., Washington D.C. 20460.
- D. Within 60 days of receipt, ECRCO will review and provide feedback about any documentation submitted by DEQ demonstrating completion of each commitment (e.g., evidence of the development of a notice of non-discrimination designation of the non-discrimination coordinator, development of grievance procedures and LEP plan, etc.) and will provide an assessment as to whether the documentation satisfies the commitment.

## **V. COMPUTATION OF TIME AND NOTICE**

- A. As used in this Agreement, "day" shall mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.
- B. Service of any documents required by this Agreement will be made personally, by certified mail with return receipt requested, or by any reliable commercial delivery service that provides written verification of delivery.
- C. Electronic documents submitted by DEQ to EPA via email will be sent to the following email address: Dorka.Lilian@epa.gov. Documents submitted by DEQ to EPA shall be sent to the Director, U.S. EPA External Civil Rights Compliance Office, Office of General Counsel (Mail Code 2310A), 1200 Pennsylvania Avenue N.W., Washington D.C. 20460.
- D. Documents submitted by EPA to DEQ will be sent to the Director of the Arkansas Department of Environmental Quality at 5301 Northshore Drive; North Little Rock, AR 72118-5317.


## **VI. EFFECT OF THE AGREEMENT**

- A. DEQ understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, DEQ understands that during the monitoring of this Agreement, if necessary, EPA may visit DEQ, interview staff, and request such additional reports or data as are necessary for EPA to determine whether DEQ is fulfilling the terms of this Agreement.
- B. DEQ understands that EPA will continue to monitor this Agreement until EPA determines that DEQ has fully implemented this Agreement, and that a failure to

satisfy any term in this Agreement may result in the EPA re-opening the investigation.


- C. If either Party desires to modify any portion of this Agreement because of changed conditions making performance impractical or impossible, or due to material change to DEQ's program or authorities, or for other good cause, the Party seeking a modification shall promptly notify the other in writing, setting forth the facts and circumstance justifying the proposed modification. Any modification(s) to this Agreement shall take effect only upon written agreement by the Director of DEQ and the EPA's Director of ECRCO.
- D. This Agreement constitutes the entire Agreement between DEQ and EPA's ECRCO regarding the matters addressed herein, and no other statement, promise, or agreement, made by any other person shall be construed to change any commitment or term of this Agreement, except as specifically agreed to by DEQ and EPA's ECRCO in accordance with the provisions of Section VI. Paragraph C above.
- E. This Agreement does not affect DEQ's continuing responsibility to comply with Title VI or other federal non-discrimination laws and EPA's nondiscrimination regulation at 40 C.F.R. Parts 5 and 7, including § 7.85, nor does it affect EPA's investigation of any Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement.
- F. The effective date of this Agreement is the date by which both Parties have signed the Agreement. This Agreement may be signed in counterparts. The Director, in her capacity as an official of DEQ, has the authority to enter into this Agreement for purposes of carrying out the activities listed in these paragraphs. The EPA's Director of ECRCO has the authority to enter into this Agreement.

On behalf of the Division of Environmental Quality:

  
Becky W. Keogh, Director  
Division of Environmental Quality

1/05/2021  
(Date)

On behalf of the External Civil Rights Compliance Office, Office of General Counsel, U.S. Environmental Protection Agency:

  
Lilian S. Dorka, Director  
External Civil Rights Compliance Office  
Office of General Counsel

12/18/2020  
(Date)

## REGION 6 EXECUTIVE SUMMARY

TOPIC: Georgia Pacific – Crossett, Arkansas

CONTACTS: Marcia Moncrieffe<sup>1</sup>

DATE: April 29, 2019

PURPOSE/ACTION NEEDED: RA Briefing

DEADLINE DATE: May 7, 2019

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There is a range of related matters involving the Georgia-Pacific Crossett facility: CAA Enforcement, NPDES Permit, Title VI Complaint, and Title V Permit Application. Although this Executive Summary is provided at this time mainly for the Title VI update, it remains important to share information as well on the related matters.

### **BACKGROUND:**

#### **Facility Background**

Georgia-Pacific (“GP”) operates an integrated wood, paper, and chemical products complex directly adjacent to the north side of Crossett, Arkansas. The complex began as a sawmill operation in 1937. The plants in the Crossett complex share one process wastewater treatment system which eventually discharges to the Ouachita River, more than 10 miles downstream of the plant. The complex generates 40 million gallons of process wastewater per day. The system also manages the City of Crossett’s municipal wastewater stream, which contributes about 1 million gallons per day. The complex operates under a Clean Air Act (“CAA”) Title V permit and a National Pollutant Discharge Elimination System (“NPDES”) permit. The GP complex is the main source of employment for the City of Crossett, which has a population of approximately 5,100 citizens.

#### **Hydrogen Sulfide Monitoring**

Since late 2014, GP, in cooperation with EPA Region 6 (“Region 6”), Arkansas Department of Environmental Quality (“ADEQ”), and the Arkansas Department of Health, has been voluntarily conducting continuous ambient air monitoring for hydrogen sulfide at a single point in Crossett. In 2017, Region 6 deployed passive monitors at 20 locations in Crossett, on both GP and surrounding community property, for 24 weeks of sampling. The results were published on the Region 6 website in January 2018. As a part of Consent Decree negotiations, GP completed studies necessary to identify sources and reduce hydrogen sulfide emissions at the facility and proposed Supplemental Environmental Projects (“SEPs”) and mitigation projects to be incorporated in the final Consent Decree (see below), including 3 additional years of hydrogen sulfide (H<sub>2</sub>S) monitoring.

#### **CAA Enforcement**

In February 2015, the National Enforcement Investigations Center (“NEIC”) conducted a multi-media inspection of the GP paper and chemical manufacturing facilities in Crossett. In 2016 and 2017, Region 6 issued administrative enforcement actions and settlements with the company stemming from the

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<sup>1</sup> I prepared the document with input from all related divisions.



Resource Conservation and Recovery Act, Risk Management Program (“RMP”), and Clean Water Act (“CWA”) violations in the NEIC inspection report at both the paper mill and chemical plant. The Region referred the remaining CAA violations to the Department of Justice (“DOJ”) on September 20, 2016. To obtain expedient corrective action, three CAA and RMP Administrative Orders on Consent were issued in 2016 and 2017 and incorporated into the Consent Decree. The Consent Decree was lodged and a complaint was filed December 14, 2018. GP agreed to pay a penalty of \$600,000, implement three SEPs valued at \$1.8 million, and implement a mitigation project valued at \$2.9 million. Co-Plaintiff ADEQ will receive half of the civil penalty (\$300,000) but asserts no claims for injunctive relief.

## **NPDES - Water Permitting**

GP’s wastewater treatment system discharges into Mossy Lake, then to Coffee Creek and ultimately into the Ouachita River near the Arkansas - Louisiana state line. Arkansas Regulation 2 removes color and specific water quality standards for Mossy Lake and Coffee Creek. GP operates under an administratively continued Arkansas water permit which expired on October 31, 2015. ADEQ provided a preliminary draft permit (“PDP”) for the facility on February 6, 2017, and a revised permit on March 6, 2017. Region 6 sent ADEQ an interim objection requesting additional information regarding the application of technology based effluent limitations, conveyances and the status of Mossy Lake as part of the treatment system on May 19, 2017. The PDP indicates that Mossy Lake is part of GP’s control train and ADEQ has clarified the status of conveyances with respect to Coffee Creek. Additionally, GP’s effluent is conveyed through a series of flood prone open-air canals. There have been several conference calls held between EPA and ADEQ regarding GP Crossett PDP and ADEQ’s response to EPA’s Interim Objection. EPA awaits a formal response to the May 19, 2017, Interim Objection.

## **Title VI Complaint**

Complainant, Tulane Environmental Law Clinic on behalf of Ouachita Riverkeeper and Louisiana Environmental Action Network, filed a Title VI Complaint on April 26, 2016 naming the ADEQ as the current recipient of EPA’s funds and the violator of Title VI of the 1964 Civil Rights Act. The Title VI complaint is based on an alleged discriminatory act that occurred on November 1, 2015. On that date, ADEQ administratively continued a NPDES permit that authorized GP to discharge its wastewater to Coffee Creek prior to treatment. The complaint states that the untreated wastewater flows through a majority African-American area in the community of West Crossett, Arkansas, subjecting this community to harmful emissions and eliminating their use of Coffee Creek as a natural resource. On April 26, 2016, EPA’s External Civil Rights Compliance Office (“ECRCO”) received the complaint, and by its letter of June 28, 2016 to the complainant accepted the complaint to investigate two issues:

Whether ADEQ discriminated against the predominantly African American community of West Crossett, AR, on the bases of race and/or color, in violation of Title VI of the Civil Rights Act, and EPA’s implementing regulation, by allowing the administrative continuance of NPDES Permit No. AR0001210 that allegedly does not meet the standards of the Clean Water Act; and

Whether ADEQ discriminated against the predominantly African American community of West Crossett, AR, on the bases of race and/or color, in violation of Title VI of the Civil Rights Act and EPA’s implementing



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regulation, by allowing the administrative continuance of a NPDES permit No. AR0001210 that allegedly exposes the community to harmful emissions and that allegedly eliminates the use of Coffee Creek in violation of the Clean Water Act.

### **Title V Permit Application**

GP has a pending Title V permit renewal with ADEQ which includes increases in permitted emissions that are associated with revisions to emission factors/calculations and the incorporation of two minor modifications. Among the increases in permitted emissions, total reduced sulfur permitted emission rates are increasing by 233.5 tons per year (“tpy”) and methanol permitted emission rates are increasing by 76.95 tpy. The public notice period on the draft Title V permit was initially scheduled to end on December 14, 2017. In response to a request from the public, ADEQ extended the public comment period until January 4, 2018.

Public notice of the draft permit occurred in the Arkansas Democrat Gazette and the Ashley News Observer. The public has claimed they were unaware of the public notice and no local notifications were done despite their known concerns. Region 6 is now exploring whether ADEQ may have a potential Title V programmatic issue with respect to maintaining a mailing list to notify the public of all permit public notices. The public has also raised issues with the concurrent air permit review process ADEQ utilizes for Title V permits. Region 6 has clarified to ADEQ in recent documents how such a process should work since ADEQ was taking a different approach.

### **Environmental Justice (“EJ”)**

The EJ community living near the GP complex complains of frequent breathing problems, eye and throat irritation, corroded HVAC systems, and oppressive odors. They also claim there is a higher rate of cancer and other health issues due to chemicals from GP in the air and water. Mr. David Bouie is the leader of the local group, Crossett Concerned Citizens for Environmental Justice (CCCEJ), which was formed to better address the community’s concerns with GP. While residents associated with CCCEJ have been vocal about their concerns with GP, other residents of Crossett, such as elected officials, civic leaders, and people employed at GP, are wary of EPA involvement and the negative attention their town has received in the past few years.

In February 2014, Deputy Regional Administrator Sam Coleman and the Region 6 Arkansas EJ Liaison visited Crossett, AR to attend a public meeting that was hosted by CCCEJ. The purpose of the visit was to participate in a tour of the community and attend a community meeting at the request of Mr. David Bouie. In August of 2014, ADEQ also held a meeting to discuss the community concerns. In December 2015, Region 6 met with the community to discuss the results of NEIC’s inspection of GP. EJ also assisted with organizing a meeting between representatives for CCCEJ and GP in August 2016. Concerns about environmental odors and H2S emissions in Crossett were discussed at the meeting. The main discussion items raised by CCCEJ involved facility compliance following the NEIC inspection conducted in February 2015, permitting and operation of the facility wastewater treatment system, and the current voluntary air monitoring project for H2S. GP provided information on its responsiveness to the NEIC inspection, improvements made to the wastewater treatment process, and activities related to the voluntary air monitoring. In December 2017, ADEQ hosted, and Region 6 attended, a public meeting to provide updates on actions that were taken regarding the water permit and the air monitoring results.

## **CURRENT STATUS:**

- CAA Enforcement – The Consent Decree was lodged December 14, 2018. Region 6 hosted a community meeting with the GP and ADEQ regarding the Consent Decree on February 7, 2019. The public comment period for the Consent Decree closed February 28, 2019. Region 6 and DOJ are currently drafting the Motion to Enter with the response to comments.
- NPDES Water Permitting – Region 6 is awaiting ADEQ’s formal response to the interim objection issued by Region 6 on May 19, 2017.
- Title VI Complaint - EPA’s ECRCO has been working with Region 6, ADEQ, the complainant, and community members, to reach an informal agreement between EPA and ADEQ to resolve the complaint through an informal resolution. ECRCO has shared the draft informal resolution agreement with ADEQ. ECRCO, ADEQ, and Region 6 have been actively engaged via phone calls, almost on a weekly basis, discussing ADEQ’s review and position on the draft informal resolution agreement. Another call is scheduled for April 29, 2019. The goal is to reach an agreement between ADEQ and ECRCO/EPA by May 7, 2019.
- Title V Permit - GP has a pending Title V permit renewal with ADEQ. As of April 26, 2019, the Title V permit renewal is still pending and has not been issued final by ADEQ.

## **ENVIRONMENTAL/PUBLIC HEALTH CONCERNS:**

- The community has expressed health concerns regarding emissions and odors mainly thought to be emitted from the wastewater treatment system.

## **TECHNICAL CONCERNS:**

- Water Permitting - GP is using Mossy Lake as a finishing pond for their treatment process. There may be concerns regarding boundaries between the wastewater treatment process and waters of the United States.
- Water Permitting - Flooding occurs approximately 6 months out of the year causing Mossy Lake and Coffee Creek to overflow their banks resulting in a mixture of effluent and ambient water.

## **REGULATORY/LEGAL REQUIREMENTS:**

- Title VI - Ouachita Riverkeeper and Louisiana Environmental Action Network (LEAN) filed a complaint against ADEQ under Title VI of the Civil Rights Act of 1962, and the EPA’s implementing regulations of 40 CFR Part 7.
- Water Permitting - Arkansas Regulation 2, specific water quality standards (fishable / swimmable and domestic water supply uses), were removed from Coffee Creek and Mossy Lake in 1980. The nearest stream with numeric standards is the Ouachita River.

## **COMMUNITY CONCERNS:**

- There is a long history of citizen complaints for odors, property damage, and adverse health effects from chemical emissions at the wastewater plant. Emissions at the GP facility were the focus of a 2016 documentary called “Company Town” and the focus of several articles in national publications like Newsweek and the New Yorker.
- The Region 6 Office of Environmental Justice, Tribal, and International Affairs has been working closely with the community in Crossett and is in regular communication with the community.



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- Region 6 attended a public meeting, hosted by ADEQ, on December 14, 2017, in which the Region presented the monitoring results to the community. Region 6 hosted a public meeting, with GP and ADEQ attending, on February 7, 2019 about the Consent Decree.
- GP Crossett's discharge flows through a community with environmental justice concerns.

**RECOMMENDATIONS/ACTION ITEMS:**

- DOJ to file the Motion to Enter with response to comments shortly.
- ECRCO and Region 6 to continue working with ADEQ to resolve the informal resolution agreement.

**To:** Maguire, Charles[maguire.charles@epa.gov]  
**From:** York, Alan[alan.york@adeq.state.ar.us]  
**Sent:** Wed 11/24/2021 7:07:45 PM (UTC)  
**Subject:** DEQ Rule 2 Revision  
Exhibit B-1 Rule 2 - Supplemental Response to EPA Comment-20211119 (2).pdf  
Revised Definition of 'Waters of the United States' NPRM Pre-Publication....pdf

Charles,

I hope this email finds you well. I just wanted to give you a heads up that DEQ intends to move forward with a Rule 2 Revision at next Friday’s APC&EC Hearing.

Rather than retype what we are moving forward with, I have attached (1) a Supplement to DEQ’s Responsive Summary regarding the Rule 2 Revision, and (2) an excerpt from the recently released EPA guidance regarding WOTUS.

Please feel free to get in touch next week if we need to discuss.

Thanks,

**Alan J. York** | Associate Director  
**Division of Environmental Quality | Office of Water Quality**  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.683.6372 | e: [Alan.York@adeq.state.ar.us](mailto:Alan.York@adeq.state.ar.us)



**To:** Maguire, Charles[maguire.charles@epa.gov]  
**From:** Martinez, Maria[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA]  
**Sent:** Fri 12/3/2021 10:32:44 PM (UTC)  
**Subject:** RE: ADPC&E December 3, 2021 Agenda and Rule 2 Materials

Will do...

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**From:** Maguire, Charles <maguire.charles@epa.gov>  
**Sent:** Friday, December 3, 2021 4:32 PM  
**To:** Martinez, Maria <Martinez.Maria@epa.gov>  
**Subject:** Re: ADPC&E December 3, 2021 Agenda and Rule 2 Materials

Let Renea know

Sent from my iPhone

On Dec 3, 2021, at 4:30 PM, Martinez, Maria <Martinez.Maria@epa.gov> wrote:

That is what it looks like...

---

**From:** Maguire, Charles <maguire.charles@epa.gov>  
**Sent:** Friday, December 3, 2021 4:30 PM  
**To:** Martinez, Maria <Martinez.Maria@epa.gov>  
**Subject:** Re: ADPC&E December 3, 2021 Agenda and Rule 2 Materials

Which means they ignored our comments ?????

Sent from my iPhone

On Dec 3, 2021, at 4:03 PM, Martinez, Maria <Martinez.Maria@epa.gov> wrote:

See attached file for Rule 2 excerpts.

From:  
[https://www.adeg.state.ar.us/downloads/commission/agenda/2021-12-03 Commission Agenda\(with Attachments\).pdf](https://www.adeg.state.ar.us/downloads/commission/agenda/2021-12-03%20Commission%20Agenda(with%20Attachments).pdf)

- ADPC&E Commission  
REGULAR COMMISSION MEETING  
Friday, December 3, 2021 | 10:00 a.m. Commission Room AGENDA (Item #01)
- I. Call Meeting to Order
  - II. Roll Call
  - III. Approval of October 22, 2021, Commission Meeting (Item #02) Minutes
  - IV. A. Department Briefing Becky Keogh, ETE Secretary B. Administrator Address Julie Linck, Chief Administrator of the Environment
  - V. Act 704 Rules Updates APPENDIX I - Docket No. 21-003-MISC (Items #03-26) - Michael McAlister for Division of Environmental Quality - Minute Order (Adopt)
  - VI. Rule No. 2, Rule Establishing Water Quality Standards for Surface APPENDIX II Waters of the State of Arkansas (Item #27-40) - Docket No. 20-004-R - Basil Hicks for Division of Environmental Quality - Minute Order (Adopt)
  - VII. Administrative Law Judge – Charles Moulton A. Settled Cases per Regulation No.

8 1. In the Matter of Nucor-Yamato Steel Company APPENDIX III - Docket No. 21-003-P (Items #41)

VIII. VIII. Adjourn

**To:** Maguire, Charles[[maguire.charles@epa.gov](mailto:maguire.charles@epa.gov)]  
**From:** Sawyers, Andrew[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=49214552A00B4AB7B168EC0EDBA1D1AC-SAWYERS, ANDREW]  
**Sent:** Tue 12/7/2021 11:44:36 PM (UTC)  
**Subject:** RE: Important Update - FW: APC&EC Rule 2 hearing delayed to January 2022

Thanks Charles

---

**From:** Maguire, Charles <[maguire.charles@epa.gov](mailto:maguire.charles@epa.gov)>  
**Sent:** Tuesday, December 7, 2021 12:51 PM  
**To:** Sawyers, Andrew <[Sawyers.Andrew@epa.gov](mailto:Sawyers.Andrew@epa.gov)>  
**Subject:** Fwd: Important Update - FW: APC&EC Rule 2 hearing delayed to January 2022

FYI

Sent from my iPhone  
Begin forwarded message:

**From:** "Martinez, Maria" <[Martinez.Maria@epa.gov](mailto:Martinez.Maria@epa.gov)>  
**Date:** December 7, 2021 at 11:14:32 AM CST  
**To:** "Maguire, Charles" <[maguire.charles@epa.gov](mailto:maguire.charles@epa.gov)>, "Hill, Troy" <[Hill.Troy@epa.gov](mailto:Hill.Troy@epa.gov)>, "Rauscher, Leslie" <[Rauscher.Leslie@epa.gov](mailto:Rauscher.Leslie@epa.gov)>  
**Subject:** Important Update - FW: APC&EC Rule 2 hearing delayed to January 2022

FYI...Russell has confirmed that Rule 2 was indeed postponed from the Commission's Agenda. Apparently the Commission's website was not updated in time.

Russell will be preparing an updated factsheet. See details below for now.

---

**From:** Nelson, Russell <[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)>  
**Sent:** Tuesday, December 7, 2021 10:51 AM  
**To:** Martinez, Maria <[Martinez.Maria@epa.gov](mailto:Martinez.Maria@epa.gov)>; Ryland, Renea <[Ryland.Renea@epa.gov](mailto:Ryland.Renea@epa.gov)>  
**Cc:** Hayes, Mark <[hayes.mark@epa.gov](mailto:hayes.mark@epa.gov)>; Huff, Juanita <[Huff.Juanita@epa.gov](mailto:Huff.Juanita@epa.gov)>; Medrano, Selena <[Medrano.Selena@epa.gov](mailto:Medrano.Selena@epa.gov)>; Wooster, Richard <[Wooster.Richard@epa.gov](mailto:Wooster.Richard@epa.gov)>  
**Subject:** RE: APC&EC Rule 2 hearing delayed to January 2022

Rule 2 is indeed on the Commission agenda, but that does not mean they heard ADEQ's proposed revisions. There are no minutes of that meeting posted on the site.

I have heard directly from Charles Moulton, ALJ for the Commission, and he informed me that DEQ asked the Commission to table Rule 2 at the December Commission meeting and the Commission did so. He does not know when, or even if, DEQ plans on asking the Commission to adopt the proposed revisions as currently drafted. That is consistent with what I heard directly from my counterparts at ADEQ, who said it was postponed until the January 28, 2022 hearing.

Speculation, but since the Commission Chair, Richard Roper was a cc on Charles' November 29<sup>th</sup> letter stating that the EPA does not support the approach outlined in ADEQ's Supplemental Responsiveness Summary and delaying action on appropriate revisions until the 2023 triennial revisions, and referring to our August 23, 2021 that was addressed directly to him, Chair Roper may not be inclined to adopt revisions that may result in a federal promulgation – assuming the Administrator makes such a determination if the Region requests it.

*Russell*

---

**From:** Nelson, Russell <[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)>  
**Sent:** Tuesday, December 07, 2021 9:50 AM  
**To:** Martinez, Maria <[Martinez.Maria@epa.gov](mailto:Martinez.Maria@epa.gov)>  
**Cc:** Ryland, Renea <[Ryland.Renea@epa.gov](mailto:Ryland.Renea@epa.gov)>; Hayes, Mark <[hayes.mark@epa.gov](mailto:hayes.mark@epa.gov)>; Huff, Juanita <[Huff.Juanita@epa.gov](mailto:Huff.Juanita@epa.gov)>; Medrano, Selena <[Medrano.Selena@epa.gov](mailto:Medrano.Selena@epa.gov)>; Wooster, Richard

<Wooster.Richard@epa.gov>

**Subject:** APC&EC Rule 2 hearing delayed to January 2022

**Importance:** High

Maria,

It appears that Charles' November 30, 2021 letter had some affect. I have just learned from my counterparts at ADEQ that the Commissions hearing on Rule 2 was postponed until its January meeting.

The January Commission Meeting should be Friday, January 28, 2022.

The Administrative Rules Committee meeting is Wednesday, February 16, 2022.

The Public Health ... Committee meeting is Monday, March 7, 2022.

If this schedule moves forward, submittal to EPA would be late March. I can confirm the rescheduling with Charles Moulton if necessary.

I have Exhibits C-1 and C-2 dated 11/24/2021 which are the version the Commission will be considering for adoption in January.

I will put together a updated briefing reflecting this and run it by you and Renea that Charles can share with David.

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

Cell (972) 310-1539  
(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent." B. Ruckelshaus*



**To:** Martinez, Maria[Martinez.Maria@epa.gov]  
**Cc:** Maguire, Charles[maguire.charles@epa.gov]  
**From:** Berry, Natalie[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7F5B3FEE546E4A2993EBEEE3EB26655D-BERRY, NATALIE]  
**Sent:** Wed 1/26/2022 11:11:29 PM (UTC)  
**Subject:** FW: Critical Timeline - Arkansas PC&CE Commission Letter for WDD Signature  
MARTINEZ 1 26 2022 EPA Letter to APCEE Commission Regarding DEQ Rule 2 January 26 2022.pdf

Maria,

Letter approved/signed as requested. Have a great evening!

---

**From:** Maguire, Charles <maguire.charles@epa.gov>  
**Sent:** Wednesday, January 26, 2022 5:08 PM  
**To:** Berry, Natalie <Berry.Natalie@epa.gov>  
**Cc:** Hill, Troy <Hill.Troy@epa.gov>; Martinez, Maria <Martinez.Maria@epa.gov>  
**Subject:** RE: Critical Timeline - Arkansas PC&CE Commission Letter for WDD Signature

Reviewed and Approved.

---

**From:** Berry, Natalie <Berry.Natalie@epa.gov>  
**Sent:** Wednesday, January 26, 2022 5:07 PM  
**To:** Maguire, Charles <maguire.charles@epa.gov>  
**Cc:** Hill, Troy <Hill.Troy@epa.gov>; Martinez, Maria <Martinez.Maria@epa.gov>  
**Subject:** FW: Critical Timeline - Arkansas PC&CE Commission Letter for WDD Signature  
**Importance:** High

Hello Charles,

Please review and approve and I will upload your signature. Thanks!

---

**From:** Martinez, Maria <Martinez.Maria@epa.gov>  
**Sent:** Wednesday, January 26, 2022 4:53 PM  
**To:** Berry, Natalie <Berry.Natalie@epa.gov>  
**Cc:** Maguire, Charles <maguire.charles@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>; Rauscher, Leslie <Rauscher.Leslie@epa.gov>  
**Subject:** Critical Timeline - Arkansas PC&CE Commission Letter for WDD Signature  
**Importance:** High

Natalie,

We would appreciate your assistance in getting the attached letter processed for Charles signature this afternoon. He is standing by for signature.

Thanks,

Maria

**To:** Berry, Natalie[Berry.Natalie@epa.gov]  
**From:** Martinez, Maria[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA]  
**Sent:** Tue 11/30/2021 11:24:42 PM (UTC)  
**Subject:** Fwd: Response Letter and Enclosure - ARK Reg. 2 WQS Revisions (ECRCO and the ADEQ Title VI case-EPA Complaint No. 27R-16-R6)  
[ARK Rule 2 2020 Revisions EPA redline draft 11-23.docx](#)  
[November 30 2021 Response to ADEQ York Exhibit B-1 CCML.docx](#)

Sent from my iPhone

Begin forwarded message:

**From:** "Maguire, Charles" <maguire.charles@epa.gov>  
**Date:** November 30, 2021 at 5:16:31 PM CST  
**To:** "Martinez, Maria" <Martinez.Maria@epa.gov>  
**Cc:** "Hill, Troy" <Hill.Troy@epa.gov>, "Rauscher, Leslie" <Rauscher.Leslie@epa.gov>  
**Subject:** **Re: Response Letter and Enclosure - ARK Reg. 2 WQS Revisions (ECRCO and the ADEQ Title VI case-EPA Complaint No. 27R-16-R6)**

Approved  
Can Natalie add my signature so I can email

Sent from my iPhone

On Nov 30, 2021, at 4:34 PM, Martinez, Maria <Martinez.Maria@epa.gov> wrote:

Attached is the revised response letter to DEQ concerning Reg 2. It is ready for signature. Also attached is the Rule 2 redline/strikeout referenced enclosure.

Please note that we didn't receive any input from ECRCO. We checked in with ECRCO staff and they were either already off duty or unavailable.

**Cc:** Hayes, Mark[hayes.mark@epa.gov]; Huff, Juanita[Huff.Juanita@epa.gov]  
**To:** Ryland, Renea[Ryland.Renea@epa.gov]; Wooster, Richard[Wooster.Richard@epa.gov]; Nelson, Russell[nelson.russell@epa.gov]; Medrano, Selena[Medrano.Selena@epa.gov]  
**From:** Martinez, Maria[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA]  
**Sent:** Wed 12/1/2021 1:39:06 AM (UTC)  
**Subject:** Fwd: Response Letter and Enclosure - ARK Reg. 2 WQS Revisions (ECRCO and the ADEQ Title VI case-EPA Complaint No. 27R-16-R6)  
[ARK Rule 2 2020 Revisions EPA redline draft 11-23.docx](#)  
[November 30 2021 Response to ADEQ York Exhibit B-1 CCML-signed.pdf](#)

Sent from my iPhone

Begin forwarded message:

**From:** "Maguire, Charles" <maguire.charles@epa.gov>  
**Date:** November 30, 2021 at 7:19:44 PM CST  
**To:** "York, Alan" <alan.york@adeq.state.ar.us>  
**Cc:** "Hill, Troy" <Hill.Troy@epa.gov>, "Martinez, Maria" <Martinez.Maria@epa.gov>, "Rauscher, Leslie" <Rauscher.Leslie@epa.gov>  
**Subject:** **FW: Response Letter and Enclosure - ARK Reg. 2 WQS Revisions (ECRCO and the ADEQ Title VI case-EPA Complaint No. 27R-16-R6)**

Alan

Here are our comments on what you sent regarding Rule 2. I talked to Julie today and told her I would be sending this to you.

Let me know if you need to discuss.

Thanks

Charles

**To:** Wooster, Richard[Wooster.Richard@epa.gov]  
**From:** Martinez, Maria[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA]  
**Sent:** Tue 8/24/2021 1:10:33 PM (UTC)  
**Subject:** FW: Letter to AR Commission  
MARTINEZ 8 23 2021 APCEC Roper ltr Admin determination 8.23.21.pdf

Troy has closed the loop with the RA's Office, i.e., he forwarded the signed letter to Erin.

---

**From:** Hill, Troy <Hill.Troy@epa.gov>  
**Sent:** Tuesday, August 24, 2021 7:40 AM  
**To:** Tanimura, Erin <Tanimura.Erin@epa.gov>  
**Cc:** Maguire, Charles <maguire.charles@epa.gov>; Martinez, Maria <Martinez.Maria@epa.gov>  
**Subject:** Letter to AR Commission

**To:** Ryland, Renea[Ryland.Renea@epa.gov]  
**From:** Martinez, Maria[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA]  
**Sent:** Tue 8/24/2021 7:30:30 PM (UTC)  
**Subject:** FW: Coffee Creek/Mossy Lake letter and enclosure  
MARTINEZ 8 23 2021 APCEC Roper ltr Admin determination 8.23.21.pdf

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**From:** Martinez, Maria  
**Sent:** Tuesday, August 24, 2021 8:23 AM  
**To:** Nelson, Russell <nelson.russell@epa.gov>; Wooster, Richard <Wooster.Richard@epa.gov>  
**Subject:** RE: Coffee Creek/Mossy Lake letter and enclosure

Please see the attached file Russell. Charles will be sharing it with ADEQ this morning.

---

**From:** Nelson, Russell <nelson.russell@epa.gov>  
**Sent:** Tuesday, August 24, 2021 8:16 AM  
**To:** Martinez, Maria <Martinez.Maria@epa.gov>; Wooster, Richard <Wooster.Richard@epa.gov>  
**Subject:** FW: Coffee Creek/Mossy Lake letter and enclosure  
**Importance:** High

Maria/Richard;

Any word on the letter being signed?  
It's important and common practice that standard coordinators relay a copy of important correspondence like this to our state counterparts, in this instance Joe and Mary. It's important for our working relationship that they don't get blind-sided by their management when the letter is received. The added benefit is that it insures that Joe is able to move this up his COC if the EPA letter isn't seen by the right people far enough in advance of the Commission's meeting. I would think that the last thing we would want is for the Commission to act when unaware of EPA's potential action.

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent." B. Ruckelshaus*

---

**From:** Nelson, Russell  
**Sent:** Monday, August 23, 2021 4:08 PM  
**To:** Martinez, Maria <Martinez.Maria@epa.gov>  
**Cc:** Wooster, Richard <Wooster.Richard@epa.gov>  
**Subject:** Coffee Creek/Mossy Lake letter and enclosure  
**Importance:** High

See attached.

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)

U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent." B. Ruckelshaus*

**To:** Wooster, Richard[Wooster.Richard@epa.gov]  
**From:** Martinez, Maria[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA]  
**Sent:** Thur 10/7/2021 4:29:25 PM (UTC)  
**Subject:** Re: ADEQ proposal of Rule 2 to the Commission

I will keep you posted if I hear anything.

Sent from my iPhone

On Oct 7, 2021, at 11:27 AM, Wooster, Richard <Wooster.Richard@epa.gov> wrote:

Agreed. It would be good if at least you and I could join Charles.

Richard A. Wooster  
Chief  
Water Quality Protection Section (WDPQ)  
USEPA Region 6, Water Division  
1201 Elm Street, Dallas, TX 75202  
Cell: (817) 223-1924

---

**From:** Martinez, Maria <Martinez.Maria@epa.gov>  
**Sent:** Thursday, October 7, 2021 10:57 AM  
**To:** Nelson, Russell <nelson.russell@epa.gov>; Wooster, Richard <Wooster.Richard@epa.gov>  
**Subject:** RE: ADEQ proposal of Rule 2 to the Commission

Thanks for forwarding Russell. Let's have Charles coordinate whatever discussions happen on this since it has been elevated to him. We will stand by until we are notified by Charles.

---

**From:** Nelson, Russell <nelson.russell@epa.gov>  
**Sent:** Thursday, October 7, 2021 10:54 AM  
**To:** Martinez, Maria <Martinez.Maria@epa.gov>; Wooster, Richard <Wooster.Richard@epa.gov>  
**Subject:** FW: ADEQ proposal of Rule 2 to the Commission

See below

---

**From:** York, Alan <alan.york@adeq.state.ar.us>  
**Sent:** Thursday, October 7, 2021 10:49 AM  
**To:** Maguire, Charles <maguire.charles@epa.gov>  
**Cc:** Nelson, Russell <nelson.russell@epa.gov>; Wassell, Stacie <wassell@adeq.state.ar.us>; Martin, Joe <Joe.Martin@adeq.state.ar.us>; Hicks, Basil <hicks@adeq.state.ar.us>  
**Subject:** RE: ADEQ proposal of Rule 2 to the Commission

Charles,

Joe Martin passed the attached email along to make me aware of the communication with Region 6 staff. I can confirm that we will not be proceeding with the proposed Rule 2 revisions at the October 22 hearing. At this point, the intention is to proceed at the December 3<sup>rd</sup> hearing.

I feel it would be beneficial for EPA Region 6 and DEQ to have a discussion about the Rule 2 revisions and DEQ's intent with those revisions. I think there is some misunderstanding by Region 6 staff of DEQ's position on the revision, and I think there is, at the least, an incomplete understanding by DEQ of the position EPA has taken in this matter. We would like the opportunity to explain our position, and the basis for our position, at the earliest convenient time. Likewise, we would like the opportunity to hear more about Region 6's position in the matter. I believe DEQ and EPA's goals are similar, and that a discussion between staffs can be helpful as we move forward.

I would like DEQ OWQ staff and Region 6 staff to have a virtual meeting the week of October 18. Looking at DEQ calendars, the morning of the 18<sup>th</sup>, morning of the 20<sup>th</sup>, or afternoon of the 20<sup>th</sup> are the most open at this point. If those times do not work for Region 6 staff, please let me know and we will be as adaptable as possible.

I intend to include the following DEQ staff:

Stacie Wassell, Deputy Associate Director DEQ-OWQ  
Joe Martin, Branch Manager - Water Quality Planning DEQ-OWQ  
Basil Hicks, E&E - Office of Chief Counsel

Please feel free to get in touch if you would like to discuss.

Thanks,

**Alan J. York** | Associate Director  
**Division of Environmental Quality** | **Office of Water Quality**  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.683.6372 | e: [Alan.York@adeq.state.ar.us](mailto:Alan.York@adeq.state.ar.us)  
<image001.png>

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**From:** Martin, Joe  
**Sent:** Wednesday, October 6, 2021 2:46 PM  
**To:** York, Alan <[alan.york@adeq.state.ar.us](mailto:alan.york@adeq.state.ar.us)>  
**Subject:** FW: ADEQ proposal of Rule 2 to the Commission

---

**From:** Nelson, Russell [<mailto:nelson.russell@epa.gov>]  
**Sent:** Wednesday, October 6, 2021 12:48 PM  
**To:** Martin, Joe; Barnett, Mary  
**Subject:** ADEQ proposal of Rule 2 to the Commission

Hi Joe and Mary.

I have been in contact with Charles Moulton, the Admin. Law Judge for the Commission regarding my (and as it turns out, potentially attorney's for EPA's External Civil Rights Compliance Office) remote attendance at the upcoming meeting with the expectation that DEQ was intending to ask the Commission to adopt proposed amendments to Rule 2 at their October 22<sup>nd</sup> meeting. Mr. Moulton relayed to me that he was informed this morning that DEQ not intend to ask the Commission to adopt proposed amendments to Rule 2 at the upcoming meeting. Can y'all confirm that? Does DEQ intended to move forward with asking the Commission to adopt revisions in the next scheduled Commission meeting on December 3<sup>rd</sup> ?

I appreciate any information you can relay.

Regards,

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270



Cell (972) 310-1539  
(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent." B. Ruckelshaus*

**To:** Nelson, Russell[nelson.russell@epa.gov]; Wooster, Richard[Wooster.Richard@epa.gov]  
**From:** Martinez, Maria[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA]  
**Sent:** Thur 10/7/2021 6:33:01 PM (UTC)  
**Subject:** Stand by Meeting with ADEQ's Office of WQ - FW: ADEQ proposal of Rule 2 to the Commission

Please stand by because Natalie is coordinating scheduling for a meeting with Alan the next two weeks. That meeting will be at Alan's level and below and will include the three of us together with Charles. It is anticipated that the meeting will take place before the higher level meeting.

---

**From:** Maguire, Charles [mailto:maguire.charles@epa.gov]  
**Sent:** Thursday, October 7, 2021 12:56 PM  
**To:** York, Alan <alan.york@adeq.state.ar.us>  
**Cc:** Martinez, Maria <Martinez.Maria@epa.gov>; Berry, Natalie <Berry.Natalie@epa.gov>  
**Subject:** Re: ADEQ proposal of Rule 2 to the Commission

Ok with us - so can I get Natalie to work with someone in your shop to set it up?

Sent from my iPhone

On Oct 7, 2021, at 11:34 AM, York, Alan <alan.york@adeq.state.ar.us> wrote:

Charles,

I wanted our staffs to meet before the larger meeting that is being contemplated. I believe we can identify, and hopefully solve, many of the individual sticking points prior to the larger meeting. DEQ leadership is aware that I am attempting to continue the discussion during this interim period.

Thanks,

**Alan J. York** | Associate Director  
**Division of Environmental Quality | Office of Water Quality**  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.683.6372 | e: [Alan.York@adeq.state.ar.us](mailto:Alan.York@adeq.state.ar.us)  
<image001.png>

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**From:** Maguire, Charles [mailto:maguire.charles@epa.gov]  
**Sent:** Thursday, October 7, 2021 11:06 AM  
**To:** York, Alan <alan.york@adeq.state.ar.us>  
**Cc:** Nelson, Russell <nelson.russell@epa.gov>; Wassell, Stacie <wassell@adeq.state.ar.us>; Martin, Joe <Joe.Martin@adeq.state.ar.us>; Hicks, Basil <hicks@adeq.state.ar.us>  
**Subject:** Re: ADEQ proposal of Rule 2 to the Commission

Thanks  
I think a meeting is in planning stage

Sent from my iPhone

On Oct 7, 2021, at 10:51 AM, York, Alan <alan.york@adeq.state.ar.us> wrote:

Charles,

Joe Martin passed the attached email along to make me aware of the communication with Region 6 staff. I can confirm that we will not be proceeding with the proposed Rule 2 revisions at the October 22 hearing. At this point, the intention is to proceed at the December 3<sup>rd</sup> hearing.

I feel it would be beneficial for EPA Region 6 and DEQ to have a discussion about the Rule 2 revisions and DEQ's intent with those revisions. I think there is some misunderstanding by Region 6 staff of DEQ's position on the revision, and I think there is, at the least, an incomplete understanding by DEQ of the position EPA has taken in this matter. We would like the opportunity to explain our position, and the basis for our position, at the earliest convenient time. Likewise, we would like the opportunity to hear more about Region 6's position in the matter. I believe DEQ and EPA's goals are similar, and that a discussion between staffs can be helpful as we move forward.

I would like DEQ OWQ staff and Region 6 staff to have a virtual meeting the week of October 18. Looking at DEQ calendars, the morning of the 18<sup>th</sup>, morning of the 20<sup>th</sup>, or afternoon of the 20<sup>th</sup> are the most open at this point. If those times do not work for Region 6 staff, please let me know and we will be as adaptable as possible.

I intend to include the following DEQ staff:

Stacie Wassell, Deputy Associate Director DEQ-OWQ  
Joe Martin, Branch Manager - Water Quality Planning DEQ-OWQ  
Basil Hicks, E&E - Office of Chief Counsel

Please feel free to get in touch if you would like to discuss.

Thanks,

**Alan J. York** | Associate Director  
**Division of Environmental Quality | Office of Water Quality**  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.683.6372 | e: [Alan.York@adeq.state.ar.us](mailto:Alan.York@adeq.state.ar.us)  
<image001.png>

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**From:** Martin, Joe  
**Sent:** Wednesday, October 6, 2021 2:46 PM  
**To:** York, Alan <[alan.york@adeq.state.ar.us](mailto:alan.york@adeq.state.ar.us)>  
**Subject:** FW: ADEQ proposal of Rule 2 to the Commission

---

**From:** Nelson, Russell [<mailto:nelson.russell@epa.gov>]  
**Sent:** Wednesday, October 6, 2021 12:48 PM  
**To:** Martin, Joe; Barnett, Mary  
**Subject:** ADEQ proposal of Rule 2 to the Commission

Hi Joe and Mary.

I have been in contact with Charles Moulton, the Admin. Law Judge for the Commission regarding my (and as it turns out, potentially attorney's for EPA's External Civil Rights Compliance Office) remote attendance at the upcoming meeting with the expectation that DEQ was intending to ask the Commission to adopt proposed amendments to Rule 2 at their October 22<sup>nd</sup> meeting. Mr. Moulton relayed to me that he was informed this morning that DEQ not intend to ask the Commission to adopt proposed amendments to Rule 2 at the upcoming meeting. Can y'all confirm that? Does DEQ intended to move forward with asking

the Commission to adopt revisions in the next scheduled Commission meeting on December 3<sup>rd</sup> ?

I appreciate any information you can relay.

Regards,

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

Cell (972) 310-1539  
(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent."*  
*B. Ruckelshaus*

**To:** Wooster, Richard[Wooster.Richard@epa.gov]; Ryland, Renea[Ryland.Renea@epa.gov]; Nelson, Russell[nelson.russell@epa.gov]; Medrano, Selena[Medrano.Selena@epa.gov]  
**From:** Martinez, Maria[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA]  
**Sent:** Tue 11/30/2021 5:25:30 PM (UTC)  
**Subject:** RE: My Thoughts - - - RE: Input Needed by Noon Today, 11/30 - Draft Email Response to Commission - Update: ADEQ 27R-16-R6

Got them. Thanks.

---

**From:** Wooster, Richard <Wooster.Richard@epa.gov>  
**Sent:** Tuesday, November 30, 2021 11:22 AM  
**To:** Martinez, Maria <Martinez.Maria@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>; Nelson, Russell <nelson.russell@epa.gov>; Medrano, Selena <Medrano.Selena@epa.gov>  
**Subject:** My Thoughts - - - RE: Input Needed by Noon Today, 11/30 - Draft Email Response to Commission - Update: ADEQ 27R-16-R6  
**Importance:** High

Mr. Moulton,

My staff has forwarded me your email (below) regarding the Arkansas Department of Energy and Environment’s (ADEE’s) request for the Pollution Control & Ecology (PC&E) Commission to adopt DEQ’s proposed changes to Rule 2 on December 3, 2021, based on the presumption of a resolution between EPA Region 6 and DEQ. We believe that there may have been some miscommunication on this matter, based on our understandingsince EPA is also in receipt of recent information provided byfrom DEQ ADEEon (on November 24, 2021), concerningspecifically DEQ’s ADEE’s proposal for no action on the specific issues previously in discussion. The EPA will be responding formally to ADEEDEQ on the current status of the situation in an upcoming letter and-We will ensure that the Commission receivesgets a copy of that response letter.

We look forward to our continued collaborative efforts to ensure appropriate water quality standards, consistent with the requirements of the Clean Water Act, are established in the State of Arkansas.

Richard A. Wooster  
Chief  
Water Quality Protection Section (WD PQ)  
USEPA Region 6, Water Division  
1201 Elm Street, Dallas, TX 75202  
Cell: (817) 223-1924

---

**From:** Martinez, Maria <Martinez.Maria@epa.gov>  
**Sent:** Tuesday, November 30, 2021 10:29 AM  
**To:** Ryland, Renea <Ryland.Renea@epa.gov>; Wooster, Richard <Wooster.Richard@epa.gov>; Nelson, Russell <nelson.russell@epa.gov>; Medrano, Selena <Medrano.Selena@epa.gov>  
**Subject:** Input Needed by Noon Today, 11/30 - Draft Email Response to Commission - Update: ADEQ 27R-16-R6  
**Importance:** High

Charles wants to provide an interim response to Mr. Moulton ASAP today. He requested a draft email that he can run by ECRCO and David Gray prior to him sending it. Below is my very rough draft and I would appreciate your input:

DRAFT

Mr. Moulton,

My staff has forwarded the email below regarding DEQ’s request for the PC&E Commission to adopt DEQ’s proposed changes to Rule 2 on December 3, 2021, based on a presumption of a resolution between EPA Region 6 and DEQ. We believe that they may have been some miscommunication on this matter since EPA is in receipt of recent information from DEQ on November 24, 2021, specifically DEQ’s proposal for no action on the specific issues previously in discussion. The EPA will be responding formally to DEQ on the current status of the situation in an upcoming letter. We will ensure that the Commission gets a copy of that response letter.

---

**From:** Moulton, Charles <[MOULTON@adeq.state.ar.us](mailto:MOULTON@adeq.state.ar.us)>  
**Sent:** Monday, November 29, 2021 3:48 PM  
**To:** Nelson, Russell <[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)>  
**Cc:** Richard Roper <[rroper@bartonandroper.com](mailto:rroper@bartonandroper.com)>  
**Subject:** APC&EC December 3rd meeting

Mr. Nelson –

I'm fairly confident you are already aware of this but Chairman Roper instructed me to let you know that DEQ's request for the PC&E Commission to adopt DEQ's proposed changes to Rule 2 is on the December 3, 2021, APC&EC agenda.

It's my understanding that a resolution of sorts has been reached between Region 6 and DEQ which has addressed, for now, Region 6's current concerns about Rule 2.

The December Commission meeting is in-person and it's my understanding it will be broadcast via DEQ's YouTube channel.

Best,

**Charles Moulton** | Administrative Law Judge  
**Energy & Environment** | **Pollution Control & Ecology Commission**  
3800 Richards Road | North Little Rock, AR 72117  
t: 501.682.7890 | f: 501.682.7891 | e: [moulton@adeq.state.ar.us](mailto:moulton@adeq.state.ar.us)  
[www.adeq.state.ar.us/commission/](http://www.adeq.state.ar.us/commission/)



**ARKANSAS**  
ENERGY & ENVIRONMENT

**To:** Wooster, Richard[[Wooster.Richard@epa.gov](mailto:Wooster.Richard@epa.gov)]; Nelson, Russell[[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)]; Medrano, Selena[[Medrano.Selena@epa.gov](mailto:Medrano.Selena@epa.gov)]  
**From:** Martinez, Maria[[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP \(FYDIBOHF23SPDLT\)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA](mailto:/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA)]  
**Sent:** Tue 11/30/2021 10:44:58 PM (UTC)  
**Subject:** FW: ARK Reg. 2 WQS Revisions (ECRCO and the ADEQ Title VI case-EPA Complaint No. 27R-16-R6)  
Response Letter and Enclosure - ARK Reg. 2 WQS Revisions (ECRCO and the ADEQ Title VI case-EPA Complaint No. 27R-16-R6)

FYI...see ECRCO no comments response. Charles has the final letter for signature (see attached message file). Note that the previous last paragraph was deleted based on input from RA's Office. Renea is aware of the change to the letter.

---

**From:** Dorka, Lilian <[Dorka.Lilian@epa.gov](mailto:Dorka.Lilian@epa.gov)>  
**Sent:** Tuesday, November 30, 2021 4:41 PM  
**To:** Maguire, Charles <[maguire.charles@epa.gov](mailto:maguire.charles@epa.gov)>  
**Cc:** Hill, Troy <[Hill.Troy@epa.gov](mailto:Hill.Troy@epa.gov)>; Rauscher, Leslie <[Rauscher.Leslie@epa.gov](mailto:Rauscher.Leslie@epa.gov)>; Martinez, Maria <[Martinez.Maria@epa.gov](mailto:Martinez.Maria@epa.gov)>; Tripathi, Arati <[Tripathi.Arati@epa.gov](mailto:Tripathi.Arati@epa.gov)>; Moncrieffe, Marcia <[Moncrieffe.Marcia@epa.gov](mailto:Moncrieffe.Marcia@epa.gov)>; Covington, Jeryl <[Covington.Jeryl@epa.gov](mailto:Covington.Jeryl@epa.gov)>; Khan, Zahra <[Khan.Zahra@epa.gov](mailto:Khan.Zahra@epa.gov)>; Hoang, Anhthu <[Hoang.Anhthu@epa.gov](mailto:Hoang.Anhthu@epa.gov)>; Johnson, Johahna <[Johnson.Johahna@epa.gov](mailto:Johnson.Johahna@epa.gov)>; Ryland, Renea <[Ryland.Renea@epa.gov](mailto:Ryland.Renea@epa.gov)>  
**Subject:** RE: ARK Reg. 2 WQS Revisions (ECRCO and the ADEQ Title VI case-EPA Complaint No. 27R-16-R6)

Hello Charles, thanks for the heads up re this letter. ECRCO does not have any comments or questions at this time. Lilian

Lilian Sotolongo Dorka, Director  
External Civil Rights Compliance Office  
Office of General Counsel  
U.S. Environmental Protection Agency  
202-564-9649 - Office  
202-695-9888 - Cell  
Pronouns: she/her/hers

---

**From:** Maguire, Charles <[maguire.charles@epa.gov](mailto:maguire.charles@epa.gov)>  
**Sent:** Tuesday, November 30, 2021 3:52 PM  
**To:** Dorka, Lilian <[Dorka.Lilian@epa.gov](mailto:Dorka.Lilian@epa.gov)>  
**Cc:** Hill, Troy <[Hill.Troy@epa.gov](mailto:Hill.Troy@epa.gov)>; Rauscher, Leslie <[Rauscher.Leslie@epa.gov](mailto:Rauscher.Leslie@epa.gov)>; Martinez, Maria <[Martinez.Maria@epa.gov](mailto:Martinez.Maria@epa.gov)>  
**Subject:** FW: ARK Reg. 2 WQS Revisions (ECRCO and the ADEQ Title VI case-EPA Complaint No. 27R-16-R6)  
**Importance:** High

Lilian  
We have sent this to your folks to seek an OK to get this to Ark DEQ today. I have called Julie to be sure there is not a misunderstanding about some sort of resolution. She assured me that that DEQ fully understands there is not a resolution yet. They are waiting on our comments to see if they can proceed with Rule 2 or need to pull it down.  
Just keeping you in the loop.  
Charles

---

**From:** Martinez, Maria <[Martinez.Maria@epa.gov](mailto:Martinez.Maria@epa.gov)>  
**Sent:** Tuesday, November 30, 2021 2:38 PM  
**To:** Maguire, Charles <[maguire.charles@epa.gov](mailto:maguire.charles@epa.gov)>; Hill, Troy <[Hill.Troy@epa.gov](mailto:Hill.Troy@epa.gov)>; Rauscher, Leslie <[Rauscher.Leslie@epa.gov](mailto:Rauscher.Leslie@epa.gov)>  
**Subject:** FW: ARK Reg. 2 WQS Revisions (ECRCO and the ADEQ Title VI case-EPA Complaint No. 27R-16-R6)  
**Importance:** High

The draft letter and enclosure are with ECRCO. See attached.

---

**From:** Ryland, Renea <[Ryland.Renea@epa.gov](mailto:Ryland.Renea@epa.gov)>  
**Sent:** Tuesday, November 30, 2021 2:31 PM  
**To:** Khan, Zahra <[Khan.Zahra@epa.gov](mailto:Khan.Zahra@epa.gov)>; Covington, Jeryl <[Covington.Jeryl@epa.gov](mailto:Covington.Jeryl@epa.gov)>  
**Cc:** Martinez, Maria <[Martinez.Maria@epa.gov](mailto:Martinez.Maria@epa.gov)>; Wooster, Richard <[Wooster.Richard@epa.gov](mailto:Wooster.Richard@epa.gov)>; Nelson, Russell <[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)>; Moncrieffe, Marcia <[Moncrieffe.Marcia@epa.gov](mailto:Moncrieffe.Marcia@epa.gov)>; Tripathi, Arati <[Tripathi.Arati@epa.gov](mailto:Tripathi.Arati@epa.gov)>; McGuire, James <[McGuire.James@epa.gov](mailto:McGuire.James@epa.gov)>; Andrews, Suzanne <[Andrews.Suzanne@epa.gov](mailto:Andrews.Suzanne@epa.gov)>  
**Subject:** ARK Reg. 2 WQS Revisions (ECRCO and the ADEQ Title VI case-EPA Complaint No. 27R-16-R6)

**Importance:** High

Good afternoon Zahra. This email is to update you guys on the latest regarding the Clean Water Act Mossy Lake/Coffee Creek issue – and to ask for your expedited review of the attached draft letter. I'm not sure if ECRCO received a copy of the Exhibit B-1 Supplemental Response document forwarded to the Region by ADEQ on November 24th, so I'm attaching a copy just to make sure. Region 6 is not in agreement with the approach outlined by ADEQ in this document, which delays action on Coffee Creek/Mossy Lake until the state's 2023 triennial revisions and makes no specific commitments as to what action, if any, the State will take with regard to these waters at that time.

We have been informed by an ALJ with the ADPC&EC that ADEQ's request for Commission approval of the Reg. 2 revisions is now on the Commission's Agenda for December 3, 2021 (this Friday) – and that the Commission is under the impression that EPA supports the revisions to Reg. 2 as they currently stand. Because this is not the case, the Region believes it is important to send a response to ADEQ's November 24<sup>th</sup> submittal as soon as possible in order to have EPA's position on the record prior to Friday's Commission meeting.

Our Division Director Charles Maguire would like to sign the attached response letter, accompanied by the redline/strikeout version of ADEQ's Reg. 2 proposed revisions, by COB today. We would like to copy ECRCO on the letter. If you guys could please take quick look at the draft letter and the enclosure to see if you have any questions or concerns, we would greatly appreciate it. The letter does not mention the Title VI Complaint. We apologize for the very quick turn-around, but as I mentioned, the Region only received ADEQ's supplemental response and news of the placement of this item on the Commission's December 3<sup>rd</sup> Agenda the day before the Thanksgiving holiday -- so things are moving at a very fast pace.

Thank you for your help on this. If you have any questions or concerns, please feel free to give me a call.

Thanks again! Renea



**To:** Maguire, Charles[maguire.charles@epa.gov]  
**Cc:** Hill, Troy[Hill.Troy@epa.gov]; Rauscher, Leslie[Rauscher.Leslie@epa.gov]  
**From:** Martinez, Maria[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA]  
**Sent:** Tue 11/30/2021 10:34:11 PM (UTC)  
**Subject:** Response Letter and Enclosure - ARK Reg. 2 WQS Revisions (ECRCO and the ADEQ Title VI case-EPA Complaint No. 27R-16-R6)  
[ARK Rule 2 2020 Revisions EPA redline draft 11-23.docx](#)  
[November 30 2021 Response to ADEQ York Exhibit B-1 CCML.docx](#)

Attached is the revised response letter to DEQ concerning Reg 2. It is ready for signature. Also attached is the Rule 2 redline/strikeout referenced enclosure.

Please note that we didn't receive any input from ECRCO. We checked in with ECRCO staff and they were either already off duty or unavailable.

**To:** Martinez, Maria[Martinez.Maria@epa.gov]  
**From:** Wooster, Richard[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=63ADFF6865C44B8D8BE9E40C69E929C2-WOOSTER, RICHARD]  
**Sent:** Mon 12/6/2021 10:47:07 AM (UTC)  
**Subject:** RE: ADPC&E December 3, 2021 Agenda and Rule 2 Materials

From my quick read, this appears to be the second blow.

Richard A. Wooster  
Chief  
Water Quality Protection Section (WD PQ)  
USEPA Region 6, Water Division  
1201 Elm Street, Dallas, TX 75202  
Cell: (817) 223-1924

---

**From:** Martinez, Maria <Martinez.Maria@epa.gov>  
**Sent:** Friday, December 3, 2021 4:05 PM  
**To:** Nelson, Russell <nelson.russell@epa.gov>  
**Cc:** Wooster, Richard <Wooster.Richard@epa.gov>  
**Subject:** FW: ADPC&E December 3, 2021 Agenda and Rule 2 Materials

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**From:** Martinez, Maria  
**Sent:** Friday, December 3, 2021 4:03 PM  
**To:** Ryland, Renea <Ryland.Renea@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>; Maguire, Charles <maguire.charles@epa.gov>  
**Subject:** ADPC&E December 3, 2021 Agenda and Rule 2 Materials

See attached file for Rule 2 excerpts.

From:  
[https://www.adeq.state.ar.us/downloads/commission/agenda/2021-12-03 Commission Agenda\(with Attachments\).pdf](https://www.adeq.state.ar.us/downloads/commission/agenda/2021-12-03_Commission_Agenda(with_Attachments).pdf)

ADPC&E Commission  
REGULAR COMMISSION MEETING  
Friday, December 3, 2021 | 10:00 a.m. Commission Room AGENDA (Item #01)

- I. Call Meeting to Order
- II. Roll Call
- III. Approval of October 22, 2021, Commission Meeting (Item #02) Minutes
- IV. IV. A. Department Briefing Becky Keogh, ETE Secretary B. Administrator Address Julie Linck, Chief Administrator of the Environment
- V. V. Act 704 Rules Updates APPENDIX I - Docket No. 21-003-MISC (Items #03-26) - Michael McAlister for Division of Environmental Quality - Minute Order (Adopt)
- VI. VI. Rule No. 2, Rule Establishing Water Quality Standards for Surface APPENDIX II Waters of the State of Arkansas (Item #27-40) - Docket No. 20-004-R - Basil Hicks for Division of Environmental Quality - Minute Order (Adopt)
- VII. VII. Administrative Law Judge – Charles Moulton A. Settled Cases per Regulation No. 8 1. In the Matter of Nucor-Yamato Steel Company APPENDIX III - Docket No. 21-003-P (Items #41)
- VIII. VIII. Adjourn

**To:** Martinez, Maria[Martinez.Maria@epa.gov]  
**Cc:** Wooster, Richard[Wooster.Richard@epa.gov]  
**From:** Nelson, Russell[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E27FA59F166C40DEAAB3D866285A30BB-NELSON, RUSSELL]  
**Sent:** Mon 8/23/2021 9:08:21 PM (UTC)  
**Subject:** Coffee Creek/Mossy Lake letter and enclosure  
APCEC Roper ltr Admin determination draft 8.17.21\_ORC.docx  
EPA combined cmnts Reg 2\_AR 2020 triennial.pdf

See attached.

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

(214) 665-6646  
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1201 ELM STREET, SUITE 500  
DALLAS, TEXAS 75270

Richard Roper, Chair  
Arkansas Pollution Control and Ecology Commission  
3800 Richards Rd,  
North Little Rock, AR 72117

Dear Mr. Roper;

It is the Environmental Protection Agency's (EPA) understanding that the Arkansas Division of Environmental Quality (ADEQ) has filed a motion to adopt proposed changes to Regulation 2, Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas, with the Arkansas Pollution Control and Ecology Commission (Commission) to be heard during the pending August 27, 2021 hearing (Docket #20-004-R). I am writing in regard to the Clean Water Act (CWA) and its implementing regulation at 40 CFR 131, which require water quality standards to be established for all waters of the United States.

The Commission adopted CWA § 101(a)(2) uses for Coffee Creek, including Mossy Lake, in the 1970's, clearly identifying them as waters of the United States subject to the requirements of the CWA. EPA agrees with this assessment. Although the Commission revised its water quality standards in the 1980's to remove CWA § 101(a)(2) uses for these water bodies, 40 CFR 131.20(a) requires the State to re-examine any water body without these uses every 3 years, and if new information indicates that the uses specified in CWA § 101(a)(2) are attainable, to revise its standards accordingly. The EPA has previously discussed the need for appropriate designated uses to be applied to Coffee Creek and Mossy Lake with ADEQ staff and management and has provided comments on proposed revisions to Regulation 2 detailing both statutory and regulatory requirements in our letters of July 31, 2019, October 31, 2019 and September 3, 2020. The proposed revisions to Regulation 2 filed by ADEQ do not contain appropriate designated uses for Coffee Creek and Mossy Lake. The ADEQ's decision not to propose designated uses for Coffee Creek and Mossy Lake was detailed in its August 4, 2021, response to the EPA's comments on Coffee Creek and Mossy Lake, submitted to the EPA pursuant to the Informal Resolution Agreement resolving EPA Complaint No. 27-16-R6 under Title VI of the Civil Rights Act of 1964. The EPA disagrees with ADEQ's assessment that there is no need to apply appropriate designated uses to these water bodies as set out in that document. The EPA strongly recommends that the Commission designate appropriate uses for Coffee Creek from its headwaters through Mossy Lake to its confluence with the Ouachita River during its August 27<sup>th</sup> hearing.

If the Commission fails to adopt appropriate designated uses for Coffee Creek from its headwaters through Mossy Lake to its confluence with the Ouachita River, the EPA Region 6 will consider recommending that the EPA Administrator make a determination under section 303(c)(4)(B) of the Act that new water quality standards are needed to meet CWA requirements,

as requested in the petition filed on September 10, 2015, by Tulane Environmental Law Clinic on behalf of Ouachita Riverkeeper under Section 553(a) of the Administrative Procedure Act (APA).

Sincerely,

Charles W. Maguire  
Director  
Water Division

cc: Becky Keogh, E&E Cabinet Secretary, DEQ Director

**To:** Martinez, Maria[Martinez.Maria@epa.gov]; Nelson, Russell[nelson.russell@epa.gov]; Ryland, Renea[Ryland.Renea@epa.gov]  
**From:** Wooster, Richard[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=63ADFF6865C44B8D8BE9E40C69E929C2-WOOSTER, RICHARD]  
**Sent:** Thur 8/26/2021 7:01:55 PM (UTC)  
**Subject:** RE: Agenda] August 27th APC&E Commission Meeting Cancelled

Concur.

Richard A. Wooster  
Chief  
Water Quality Protection Section (WDPQ)  
USEPA Region 6, Water Division  
1201 Elm Street, Dallas, TX 75202  
Cell: (817) 223-1924

---

**From:** Martinez, Maria <Martinez.Maria@epa.gov>  
**Sent:** Thursday, August 26, 2021 1:59 PM  
**To:** Nelson, Russell <nelson.russell@epa.gov>; Wooster, Richard <Wooster.Richard@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>  
**Subject:** RE: Agenda] August 27th APC&E Commission Meeting Cancelled

Thank you Russell for your continued commitment to these critical issues. I will make sure and share this update with Charles and Troy. As far as a briefing sheet laying out options, yes, I think that would be extremely helpful. I know that Renea is out on leave today and tomorrow, hopefully having some fun. Let’s draft the briefing sheet and we can solicit her input when she gets back next week.

---

**From:** Nelson, Russell <nelson.russell@epa.gov>  
**Sent:** Thursday, August 26, 2021 1:46 PM  
**To:** Martinez, Maria <Martinez.Maria@epa.gov>; Wooster, Richard <Wooster.Richard@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>  
**Subject:** FW: Agenda] August 27th APC&E Commission Meeting Cancelled  
**Importance:** High

All,

I have received a subsequent email from Charles Moulton, the Administrative Law Judge for the APC&EC saying that Chairman Roper is in receipt of our August 23, 2021, letter regarding EPA Region 6’s “objection to the adoption of proposed amendments to Commission Rule 2.” Mr. Moulton also noted that the Chair has removed consideration of the proposed amendments to Rule 2 from the Commission’s August 27, 2021, agenda. I asked if the proposed amendments to Rule 2 would be considered at the Commission’s September 24th hearing.

He responded with the following:

“At present the Rule 2 ball is in DEQ’s court. My understanding is that DEQ plans to caucus with Region 6 soon to determine whether a resolution can be reached. Whether or not there is an effort to place Rule 2 on the September agenda is, ultimately, up to DEQ because they are the entity that requested the Commission to initiate the rulemaking. The Commission won’t unilaterally place the matter on an agenda without a request to do so.”

Given this, we should be prepared to respond with EPA/Region 6 expectations to what may be contact from Alan York to Charles or David. I would recommend that we continue with what we said in the August 23<sup>rd</sup> letter, that water quality standards be applied to the entirety of Coffee Creek from its headwaters through Mossy Lake and again to Coffee Creek to its confluence with the Quachita River. Rather than lay it out here, is there interest in my developing a briefing sheet of some sort laying out options from the WQS program perspective that others can weigh in on so we can respond to Charles quickly?

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)

U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent." B. Ruckelshaus*

---

**From:** Nelson, Russell  
**Sent:** Wednesday, August 25, 2021 12:56 PM  
**To:** Wooster, Richard <[Wooster.Richard@epa.gov](mailto:Wooster.Richard@epa.gov)>; Martinez, Maria <[Martinez.Maria@epa.gov](mailto:Martinez.Maria@epa.gov)>; Ryland, Renea <[Ryland.Renea@epa.gov](mailto:Ryland.Renea@epa.gov)>  
**Subject:** Agenda] August 27th APC&E Commission Meeting Cancelled  
**Importance:** High

All;

See the attached email.

I assume Charles will need to be informed that his letter has had some effect, but he may have already heard that from Alan York. I will leave it to the three of you to determine how this is relayed up the COC and if it should be relayed to Marcia as well as ECRCO.

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

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---

**From:** E&E Email List <[emaillists@adeq.state.ar.us](mailto:emaillists@adeq.state.ar.us)>  
**Sent:** Wednesday, August 25, 2021 12:15 PM  
**To:** CommissionAgenda\_emailist <[CommissionAgenda\\_emailist@adeq.state.ar.us](mailto:CommissionAgenda_emailist@adeq.state.ar.us)>  
**Subject:** [PCE Commission Agenda] August 27th APC&E Commission Meeting Cancelled

The Chair has cancelled the Friday, August 27, 2021 Pollution Control & Ecology Commission meeting. Our next Commission meeting is scheduled for Friday, September 24, 2021.

Patricia Goff  
Pollution Control & Ecology Commission  
3800 Richards Road  
North Little Rock, AR 72117  
(501) 682-7890

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ED\_006641\_00001277-00002

**To:** Martinez, Maria[Martinez.Maria@epa.gov]; Wooster, Richard[Wooster.Richard@epa.gov]  
**From:** Nelson, Russell[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E27FA59F166C40DEAAB3D866285A30BB-NELSON, RUSSELL]  
**Sent:** Thur 10/7/2021 4:00:22 PM (UTC)  
**Subject:** RE: ADEQ proposal of Rule 2 to the Commission

Understood. Just wanted to make sure the two of you were aware.

---

**From:** Martinez, Maria <Martinez.Maria@epa.gov>  
**Sent:** Thursday, October 7, 2021 10:57 AM  
**To:** Nelson, Russell <nelson.russell@epa.gov>; Wooster, Richard <Wooster.Richard@epa.gov>  
**Subject:** RE: ADEQ proposal of Rule 2 to the Commission

Thanks for forwarding Russell. Let's have Charles coordinate whatever discussions happen on this since it has been elevated to him. We will stand by until we are notified by Charles.

---

**From:** Nelson, Russell <nelson.russell@epa.gov>  
**Sent:** Thursday, October 7, 2021 10:54 AM  
**To:** Martinez, Maria <Martinez.Maria@epa.gov>; Wooster, Richard <Wooster.Richard@epa.gov>  
**Subject:** FW: ADEQ proposal of Rule 2 to the Commission

See below

---

**From:** York, Alan <alan.york@adeq.state.ar.us>  
**Sent:** Thursday, October 7, 2021 10:49 AM  
**To:** Maguire, Charles <maguire.charles@epa.gov>  
**Cc:** Nelson, Russell <nelson.russell@epa.gov>; Wassell, Stacie <wassell@adeq.state.ar.us>; Martin, Joe <Joe.Martin@adeq.state.ar.us>; Hicks, Basil <hicks@adeq.state.ar.us>  
**Subject:** RE: ADEQ proposal of Rule 2 to the Commission

Charles,

Joe Martin passed the attached email along to make me aware of the communication with Region 6 staff. I can confirm that we will not be proceeding with the proposed Rule 2 revisions at the October 22 hearing. At this point, the intention is to proceed at the December 3<sup>rd</sup> hearing.

I feel it would be beneficial for EPA Region 6 and DEQ to have a discussion about the Rule 2 revisions and DEQ's intent with those revisions. I think there is some misunderstanding by Region 6 staff of DEQ's position on the revision, and I think there is, at the least, an incomplete understanding by DEQ of the position EPA has taken in this matter. We would like the opportunity to explain our position, and the basis for our position, at the earliest convenient time. Likewise, we would like the opportunity to hear more about Region 6's position in the matter. I believe DEQ and EPA's goals are similar, and that a discussion between staffs can be helpful as we move forward.

I would like DEQ OWQ staff and Region 6 staff to have a virtual meeting the week of October 18. Looking at DEQ calendars, the morning of the 18<sup>th</sup>, morning of the 20<sup>th</sup>, or afternoon of the 20<sup>th</sup> are the most open at this point. If those times do not work for Region 6 staff, please let me know and we will be as adaptable as possible.

I intend to include the following DEQ staff:

- Stacie Wassell, Deputy Associate Director DEQ-OWQ
- Joe Martin, Branch Manager - Water Quality Planning DEQ-OWQ
- Basil Hicks, E&E - Office of Chief Counsel

Please feel free to get in touch if you would like to discuss.

Thanks,

**Alan J. York** | Associate Director  
**Division of Environmental Quality** | **Office of Water Quality**





# ARKANSAS

## ENERGY & ENVIRONMENT

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**From:** Martin, Joe

**Sent:** Wednesday, October 6, 2021 2:46 PM

**To:** York, Alan <[alan.york@adeq.state.ar.us](mailto:alan.york@adeq.state.ar.us)>

**Subject:** FW: ADEQ proposal of Rule 2 to the Commission

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**From:** Nelson, Russell [<mailto:nelson.russell@epa.gov>]

**Sent:** Wednesday, October 6, 2021 12:48 PM

**To:** Martin, Joe; Barnett, Mary

**Subject:** ADEQ proposal of Rule 2 to the Commission

Hi Joe and Mary.

I have been in contact with Charles Moulton, the Admin. Law Judge for the Commission regarding my (and as it turns out, potentially attorney's for EPA's External Civil Rights Compliance Office) remote attendance at the upcoming meeting with the expectation that DEQ was intending to ask the Commission to adopt proposed amendments to Rule 2 at their October 22<sup>nd</sup> meeting. Mr. Moulton relayed to me that he was informed this morning that DEQ not intend to ask the Commission to adopt proposed amendments to Rule 2 at the upcoming meeting. Can y'all confirm that? Does DEQ intended to move forward with asking the Commission to adopt revisions in the next scheduled Commission meeting on December 3<sup>rd</sup>?

I appreciate any information you can relay.

Regards,

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

Cell (972) 310-1539  
(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

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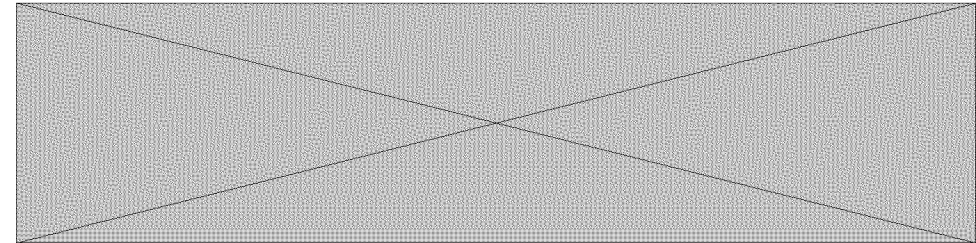
**To:** CommissionAgenda\_emailist[CommissionAgenda\_emailist@adeq.state.ar.us]  
**From:** E&E Email List[emallists@adeq.state.ar.us]  
**Sent:** Mon 10/18/2021 3:00:13 PM (UTC)  
**Subject:** [PCE Commission Agenda] Pollution Control & Ecology Commissoin Meeting  
PCEC-CommissionMeeting Agenda 10 22 21.doc  
image001.png

PC&EC to Hold October 2021 Meeting In-Person at E&E Headquarters NORTH LITTLE ROCK—

The Arkansas Pollution Control and Ecology Commission (PC&EC) will meet Friday, October 22, 2021, at 10:00 a.m. in the Commission Room located at the Arkansas Department of Energy and Environment Headquarters, 5301 Northshore Drive, North Little Rock, Arkansas. The Commission’s meeting agenda includes a report from the Chief Administrator of the Environment; a request to approve the nomination of a member to the Solid Waste Licensing Committee; and a request for oral argument and a vote on a Recommended Decision issued by the PC&EC’s administrative law judge in the Matter of Central Arkansas Recycling and Disposal Services, LLC, Docket No. 21- 002-MISC.

The PC&EC agenda, including links to various documents associated with the agenda items, is available online at: <https://www.adeq.state.ar.us/commission/agenda.aspx> for the public to view in advance of the meeting.

**Patricia Goff** | Commission Secretary  
**Energy & Environment | Pollution Control & Ecology Commission**  
3800 Richards Road | North Little Rock, AR 72117  
t: 501.682.7890 | f: 501.682.7891 | e: [goffpatti@adeq.state.ar.us](mailto:goffpatti@adeq.state.ar.us)  
[www.adeq.state.ar.us/commission/](http://www.adeq.state.ar.us/commission/)



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## POLLUTION CONTROL & ECOLOGY COMMISSION

# REGULAR COMMISSION MEETING

Friday, October 22, 2021 | 10:00 a.m.

Commission Room

## AGENDA

(Item #01)

I. Call Meeting to Order

II. Roll Call

III. Approval of July 23, 2021, Commission Meeting Minutes (Item #02)

IV. A. Department Briefing  
Julie Linck, Chief Administrator of Environment

V. Commission Reports

1. Proposed Commission Meeting Dates-2022
  - Minute Order (Adopt)
2. Resolution for Bruce Holland-Richard Roper
3. Plaque for Miles Goggans

APPENDIX I  
(Items #03)

VI. Arkansas Wastewater Licensing Committee

- Richard Healey for AWLC
- Minute Order (Ford)
- Minute Order (Ramsfield)

APPENDIX II  
(Item #04-07)

VII. Central Arkansas Recycling and Disposal Services, LLC

- Docket No. 21-002-MISC
- Amended Recommended Decision (Order No. 3)
  - Minute Order (Approve)
- Request for Oral Argument
  - Michael McAlister for Division of Environmental Quality
  - Minute Order (Deny)
- CARDS's Response to DEQ's Request for Oral Argument
  - Jordan Wimpy for Central Arkansas Recycling and Disposal Services, LLC

APPENDIX III  
(Item #08-12)

VIII. Adjourn

**To:** CommissionAgenda\_emaillist[CommissionAgenda\_emaillist@adeq.state.ar.us]  
**From:** E&E Email List[emaillists@adeq.state.ar.us]  
**Sent:** Wed 11/24/2021 9:15:03 PM (UTC)  
**Subject:** [PCE Commission Agenda] Pollution Control & Ecology Commission December Meeting  
PCEC-CommissionMeeting Agenda 12 03 21.doc

The Pollution Control & Ecology Commission meeting is scheduled for Friday, December 3, 2021 at 10:00 a.m. It will be held in the Commission Room at 5301 Northshore Dr., North Little Rock, AR 72118.

I have attached a link where you can find the agenda items that will be discussed at next month’s meeting.

[https://www.adeq.state.ar.us/downloads/commission/agenda/2021-12-03 Commission Agenda\(with Attachments\).pdf](https://www.adeq.state.ar.us/downloads/commission/agenda/2021-12-03%20Commission%20Agenda(with%20Attachments).pdf)

If you have any questions, please feel free to contact me.

Happy Thanksgiving to you and your families.

Patricia Goff  
Pollution Control & Ecology Commission  
3800 Richards Road  
North Little Rock, AR 72117  
(501) 682-7890

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## POLLUTION CONTROL & ECOLOGY COMMISSION

# REGULAR COMMISSION MEETING

Friday, December 3, 2021 | 10:00 a.m.

Commission Room

## AGENDA

(Item #01)

- I. Call Meeting to Order
- II. Roll Call
- III. Approval of October 22, 2021, Commission Meeting Minutes (Item #02)
- IV. A. Department Briefing  
Julie Linck, Chief Administrator of Environment
- V. Act 704 Rules Updates **APPENDIX I**  
- Docket No. 21-003-MISC (Items #03-26)  
- Michael McAlister for Division of Environmental Quality  
- Minute Order (Adopt)
- VI. Rule No. 2, Rule Establishing Water Quality Standards for Surface Waters of the State of Arkansas **APPENDIX II**  
(Item #27-40)  
- Docket No. 20-004-R  
- Basil Hicks for Division of Environmental Quality  
- Minute Order (Adopt)
- VII. Administrative Law Judge – Charles Moulton  
A. Settled Cases per Regulation No. 8  
1. In the Matter of Nucor-Yamato Steel Company **APPENDIX III**  
- Docket No. 21-003-P (Items #41)
- VIII. Adjourn

**To:** Martinez, Maria[Martinez.Maria@epa.gov]  
**From:** Martinez, Maria[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA]  
**Sent:** Fri 10/15/2021 1:13:27 PM (UTC)  
**Subject:** FW: Critical Timeline - Due ASAP but NLT Monday, 10/18- Input and Information Requested on GP Crossett NPDES Permit History and Coffee Creek and Mossy Lake WQ  
[Coffee Creek-Discussion-20211013.pdf](#)  
[GP Crossett 2019 application.pdf](#)  
[2021.01.08 Final ADEQ Recip Resolution Ltr and IRA 27R-16-R6.pdf](#)

---

**From:** Martinez, Maria

**Sent:** Thursday, October 14, 2021 8:43 AM

**To:** Wooster, Richard <Wooster.Richard@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>; Nelson, Russell <nelson.russell@epa.gov>; Medrano, Selena <Medrano.Selena@epa.gov>; Huff, Juanita <Huff.Juanita@epa.gov>; Hayes, Mark <hayes.mark@epa.gov>

**Subject:** Critical Timeline - Due ASAP but NLT Monday, 10/18- Input and Information Requested on GP Crossett NPDES Permit History and Coffee Creek and Mossy Lake WQ

**Importance:** High

This is a follow up to Wednesday's meeting with DEQ on the Coffee Creek and Mossy Lake water quality issues. For the benefit of Juanita and Mark, DEQ attorney Basil Hicks walked us through the attached presentation and their presentation not only included DEQ's position on the WQ designations of Coffee Creek and Mossy Lake per Rule 2 but DEQ also used the history of the GP Crossett NPDES permit as a basis. In general, we noted exception to some of their historical summary and WQ points, however, we need to follow up in an expeditious manner on some of these critical points. Below are an initial list of questions that I have compiled, however, feel free to clarify and/or add additional ones. We need to get definitive and/or historical information on these points ASAP so we can brief Charles before next week's Senior Leadership meeting between David Gray and Secretary Keough.

1. Rich/Russell/Selena: Do we have UAA information or data for any component, above Mossy Lake, at Mossy Lake, or below Mossy Lake that would indicate a different result/conclusion from DEQ's? If so, we need to compile it and provide a summary reference.
2. Rich/Russell/Selena: As far as below Mossy Lake, shouldn't the WQ protection standard and uses be the higher standard in the absence of definitive data, i.e., fishable and swimmable unless a UAA indicated something difference? Need a summary and citation on this.
3. Mark/Juanita: Does the GP Crossett NPDES permit differ from the circa 1970's version through the years to the most current in regard to:
  - a. Location of Outfalls within and external to the GP Crossett facility? If so, how and how do these changes impact the WQ protection or permit/monitoring requirements? Produce a summary. See 2019 permit application file attached.
  - b. Is there an indication in any of the GP Crossett permits (past or current) that indicate the Mossy Lake is considered part of GP's treatment system? Produce a summary and compilation of information.
  - c. Is there a part of the permit-related record, i.e., EPA comments/communications, DEQ record, DEQ response to comments, or public comments that indicate if or not Mossy Lake is considered part of GP's treatment system. Summarize and produce a compilation of information.
  - d. If Mossy Lake is to be considered part of treatment system:
    - i. How does the fact that the flooding in the Ouachita River may flood Mossy Lake affect this assumption?
    - ii. What would be the SW requirements for such a system?
4. Mark/Juanita: We need an executive summary (less than a page) on the Title VI issues. See related document in the attached file.
5. All - Other?

I will be calling the Air permits program folks to ask how DEQ is treating Mossy Lake in the CAA permit for GP Crossett.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1201 ELM STREET, SUITE 500  
DALLAS, TEXAS 75270

DRAFT November 30, 2021 DRAFT

Alan York, Associate Director  
Office of Water Quality  
Division of Environmental Quality  
Arkansas Department Energy and Environment  
5301 Northshore Drive  
North Little Rock, Arkansas 72218

Dear Mr. York:

I am writing in regard to the the Arkansas Division of Environmental Quality's (ADEQ) Supplemental Responsiveness Summary for proposed changes to Regulation 2, Exhibit B-1, signed by Basil Hicks, Esquire, on behalf of the Arkansas Division of Environmental Quality (ADEQ) and transmitted electronically to us on November 24, 2021. The Environmental Protection Agency Region 6 (EPA) has reviewed the Supplemental Responsiveness Summary and has the following response.

The Clean Water Act (CWA) and its implementing regulations at 40 CFR Part 131 require water quality standards to be established for all waters of the United States. The Commission adopted CWA § 101(a)(2) uses for Coffee Creek, including Mossy Lake, in the 1970's, clearly identifying them as waters of the United States subject to the requirements of the CWA. The EPA does not support the current approach outlined in ADEQ's Supplemental Responsiveness Summary regarding the proposed changes described in Regulation 2, Exhibit B-1, delaying action on these waters until the state's 2023 triennial revisions. As described in our August 23, 2021, letter to Richard Roper, Chair of the Arkansas Pollution Control and Ecology Commission (Commission) regarding proposed revisions to Regulation 2 (Docket #20-004-R), the EPA 6 strongly recommends that ADEQ not only strike proposed footnotes in Appendix A that redline and exclude CWA uses for Coffee Creek and Mossy Lake, but that the State clearly identify in Regulation 2 the appropriate CWA 101(a)(2) uses applicable to those waters (as explained in the Enclosure). The EPA recommends that the Commission adopt appropriate designated uses to be applied to the entirety of Coffee Creek (defined as flowing from its headwaters near the GP Crossett facility, through and including Mossy Lake, to its confluence with the Ouachita River). The EPA has previously discussed the need to adopt updated uses for these waters as required by the CWA and implementing regulations with ADEQ staff and management, both in prior written comments/communications and in more recent telephone calls and meetings.

As noted in our August 23, 2021 letter to Commission Roper, if the State fails to adopt appropriate designated uses for Coffee Creek from its headwaters near the GP Crossett facility through Mossy Lake to its confluence with the Ouachita River, the EPA Region 6 will consider recommending that the EPA Administrator make a determination under section 303(c)(4)(B) of the Act that new water quality standards are needed to meet CWA requirements, as requested in the petition filed on September 10,

2015, by Tulane Environmental Law Clinic on behalf of Ouachita Riverkeeper under Section 553(a) of the Administrative Procedure Act (APA).

Sincerely,

Charles W. Maguire  
Director  
Water Division

Enclosure

cc: Richard Roper, Chair, Arkansas Pollution Control and Ecology Commission (APC&EC)  
Becky Keogh, E&E Cabinet Secretary, DEQ Director  
Basil Hicks, Esq., Attorney for Division of Environmental Quality  
Charles Moulton, Administrative Law Judge, APC&EC  
Lilian Sotolongo Dorka, Director, External Civil Rights Compliance Office



**To:** Wooster, Richard[Wooster.Richard@epa.gov]  
**Cc:** Medrano, Selena[Medrano.Selena@epa.gov]  
**From:** Nelson, Russell[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E27FA59F166C40DEAAB3D866285A30BB-NELSON, RUSSELL]  
**Sent:** Thur 1/7/2021 4:35:49 PM (UTC)  
**Subject:** FW: executed document  
DEQ - EPA Resolution - Final 1-5-21.pdf

Here's the final as an FYI in case you get questions from the COC. Mark has been involved directly, so I would assume he/his staff can handle questions regarding the permit.

The sections specific to both the WQS, 305(b) and 303(d) are found in **II. Background**, which is much a statement of and EPA acknowledgement of historical facts. **Section D.** gets to ADEQ responsibilities for WQS, 305(b) and 303(d) WQS and 303(d) and related activities. **Section E.** gets to the actual compliant related to the permit and one of the difficult areas in the negotiation was agreement that there is disagreement on what constitutes Coffee Creek. Then the fun began... In section **III. Specific DEQ Commitments A.**, Renea and I were able to get ADEQ to committed to responding to our comments on their triennial proposals regarding the re-evaluation of specific to Mossy Lake and Coffee Creek prior to its final submission of its triennial revisions, addressing the reevaluation of appropriate designated uses specific to these waters.

While this sounds reasonable, I think that the underlying issue in the **II. Background** section will loom large in that there is significant disagreement on what and where the natural Coffee Creek is and what part of it receives GP's discharge. That will likely color ADEQ's response required by section **III. Specific DEQ Commitments**. I think our programs should work closely with both our NPDES program and ORC if we respond or certainly in the response to the eventual submission or revised standards.

*Russell*

---

**From:** Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>  
**Sent:** Wednesday, January 06, 2021 5:53 PM  
**To:** Gray, David <gray.david@epa.gov>  
**Cc:** Ryland, Renea <Ryland.Renea@epa.gov>; Hayes, Mark <hayes.mark@epa.gov>; Nelson, Russell <nelson.russell@epa.gov>; Burrell, Monica <Burrell.Monica@epa.gov>; Vaughn, Lorena <Vaughn.Lorena@epa.gov>; Barnett, Cheryl <Barnett.Cheryl@epa.gov>; Seager, Cheryl <Seager.Cheryl@epa.gov>; Frey, Sarah <frey.sarah@epa.gov>; Thrush, Dale <Thrush.Dale@epa.gov>; Welton, Patricia <Welton.Patricia@epa.gov>; Murdock, Russell <Murdock.Russell@epa.gov>; McGuire, James <McGuire.James@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Tripathi, Arati <Tripathi.Arati@epa.gov>; Dwyer, Stacey <Dwyer.Stacey@epa.gov>  
**Subject:** FW: executed document

Good evening, David,

A very Happy New Year – hoping you had a joyous season.

I am glad to share the attached document with you and our R6 team who has worked diligently on this case. Please see Lilian's second paragraph in her email below, which set forth the next steps in the resolution process.

Team,

Over the years there are several R6 personnel, going back to Sam Coleman, who have contributed to this case. I am sure I have not included everyone on the Cc. So, I ask please, anyone who is copied to this email and is aware of someone who has contributed to this case and is still working here in R6/EPA, please share my gratitude for their responses to my many questions and requests over the past four almost five years. I send special thanks to our team members who have worked from the start of this case to the last call of December 2020, with ECRCO and Arkansas- Thank you!!

I remain available and with good cheers,  
Marcia

---

**From:** Dorka, Lilian <Dorka.Lilian@epa.gov>  
**Sent:** Wednesday, January 06, 2021 4:40 PM  
**To:** mcalister <mcalister@adeq.state.ar.us>  
**Cc:** Khoury, Shane <Shane.Khoury@adeq.state.ar.us>; Shane Khoury <shane.khoury@aogc.state.ar.us>; Randolph, Shay <shay.randolph@adeq.state.ar.us>; Rhines, Dale <rhines.dale@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Covington, Jeryl

ED\_006641\_00001346-00001

<Covington.Jeryl@epa.gov>; Khan, Zahra <Khan.Zahra@epa.gov>; Rhodes, Julia <Rhodes.Julia@epa.gov>; Johnson, Johanna <Johnson.Johanna@epa.gov>; Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>

**Subject:** RE: executed document

Thank you so much for all your work on this Michael! We will go ahead and prepare a Resolution Letter (enclosing this signed agreement) and will hope to issue it by the end of the week, latest by Monday, to DEQ and Complainants. Thanks as well the EPA case team who worked so hard on this.

Per our conversation today Michael, it is not EPA's practice to issue any "press releases" related to case resolutions. We will prepare a "Reactive Desk Statement" to be used by our Office of Public Affairs in *responding* to any press inquiries and that Desk Statement will pretty much reiterate what is the standard language that you will see in the Resolution Letter, our position is that the letter/agreement speaks for itself. (Marcia, as our Region 6 Coordinator on this case, please let me know if anyone there has any questions at this point and please feel free to share this email with our other R 6 Team members.)

Thanks everyone! Lilian

Lilian Sotolongo Dorka, Director  
External Civil Rights Compliance Office  
Office of General Counsel  
U.S. Environmental Protection Agency  
202-564-9649 - Office  
202-695-9888 - Cell

---

**From:** McAlister, Michael <MCALISTER@adeq.state.ar.us>

**Sent:** Wednesday, January 6, 2021 5:22 PM

**To:** Dorka, Lilian <Dorka.Lilian@epa.gov>

**Cc:** Khoury, Shane <Shane.Khoury@adeq.state.ar.us>; Shane Khoury <shane.khoury@aogc.state.ar.us>; Randolph, Shay <shay.randolph@adeq.state.ar.us>

**Subject:** executed document

**Importance:** High

Lilian,  
As discussed, please find the fully executed document attached.  
Stay safe and well, and I hope all goes well tomorrow.  
Best wishes,  
Michael

Message

---

**From:** Barnett, Mary [BARNETT@adeq.state.ar.us]  
**Sent:** 12/7/2021 3:23:27 PM  
**To:** Nelson, Russell [nelson.russell@epa.gov]; Martin, Joe [Joe.Martin@adeq.state.ar.us]  
**Subject:** RE: Rule 2 revisions

Russell,

Rule 2 was postponed until the January Commission meeting.  
Exhibit C-1 and C-2 dated 11/24/2021 are the version the Commission will be considering for adoption in January.

The January Commission Meeting should be Friday, January 28, 2022.  
The Administrative Rules Committee meeting is Wednesday, February 16, 2022.  
The Public Health ... Committee meeting is Monday, March 7, 2022.

If this schedule moves forward, submittal to EPA would be late March.

**Mary Barnett** | Ecologist Coordinator  
Division of Environmental Quality | Office of Water Quality  
Water Quality Planning Branch  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.682.0666 | e: [barnett@adeq.state.ar.us](mailto:barnett@adeq.state.ar.us)



**ARKANSAS**  
ENERGY & ENVIRONMENT

---

**From:** Nelson, Russell [mailto:[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)]  
**Sent:** Tuesday, December 7, 2021 9:04 AM  
**To:** Martin, Joe; Barnett, Mary  
**Subject:** Rule 2 revisions

Hi Joe and Mary,

I received an email from Charles Moulton that the APC&EC heard DEQ's proposed revisions on December 3<sup>rd</sup>. There aren't any minutes or anything like that posted on the Commission's website, so I thought I'd check with y'all to confirm that they were heard and if they were adopted. And the big question for me is if the exhibit C-1 version is what was adopted or if any alterations were made. Any guess on submission date??

The C-2 mark-up is pretty handy for me to work from as I prepare for an official submission, but I don't want to get off track and waste time if that's not representative of what's been adopted.

Thanks!

*Russell*

Russell Nelson

Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

Cell (972) 310-1539  
(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent." B. Ruckelshaus*

**To:** Joe Martin (joe.martin@adeq.state.ar.us)[joe.martin@adeq.state.ar.us];  
(BARNETT@adeq.state.ar.us)[BARNETT@adeq.state.ar.us]  
**From:** Nelson, Russell[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP  
(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E27FA59F166C40DEAAB3D866285A30BB-NELSON, RUSSELL]  
**Sent:** Tue 8/24/2021 5:13:19 PM (UTC)  
**Subject:** EPA R6 letter to APC&EC - WQS for Coffee Creek and Mossy Lake  
APCEC Roper ltr Admin determination 8.23.21.pdf

Joe and Mary;

As discussed earlier Joe, I would like to provide you both the attached letter from Charles Maguire to Richard Roper regarding the Region's potential recommendation that the EPA Administrator make a determination under CWA §303(c)(4)(B) that water quality standards are needed in in Coffee Creek and Mossy Lake in order to meet CWA requirements. It's my understanding that Charles has relayed the letter to Alan. I have also provided a copy directly to the Commission's Secretary, Patricia Goff via email.

If either of you have any questions, shoot me an email or give me a call – I think you both have my cell number.

Thanks,

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent." B. Ruckelshaus*

**To:** Wooster, Richard[Wooster.Richard@epa.gov]; Ryland, Renea[Ryland.Renea@epa.gov]  
**From:** Nelson, Russell[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E27FA59F166C40DEAAB3D866285A30BB-NELSON, RUSSELL]  
**Sent:** Wed 8/11/2021 10:12:46 PM (UTC)  
**Subject:** First cut letter to APCEC  
APCEC Roper ltr Admin determination draft 8.11.21 .docx

It wasn't clear who was doing what, so I took a simplistic first cut to get things started. May not want to refer to the petition, may want to add something on ADEQ's response to the specific DEQ commitment in the Informal Resolution Agreement.

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent." B. Ruckelshaus*

**To:** Wooster, Richard[Wooster.Richard@epa.gov]; Nelson, Russell[nelson.russell@epa.gov]  
**From:** Ryland, Renea[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C297436CC8ED44FBAAD04CC779FED45E-RYLAND, RENEA]  
**Sent:** Wed 11/24/2021 8:56:30 PM (UTC)  
**Subject:** FW: DEQ Rule 2 Revision  
[image001.png](#)  
[Exhibit B-1 Rule 2 - Supplemental Response to EPA Comment-20211119 \(2\).pdf](#)  
[Revised Definition of 'Waters of the United States' NPRM Pre-Publication....pdf](#)

FYI.

---

**From:** Maguire, Charles <maguire.charles@epa.gov>  
**Sent:** Wednesday, November 24, 2021 1:37 PM  
**To:** Hill, Troy <Hill.Troy@epa.gov>  
**Cc:** Martinez, Maria <Martinez.Maria@epa.gov>; Rauscher, Leslie <Rauscher.Leslie@epa.gov>; Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>; Chiang, I-Jung <chiang.i-jung@epa.gov>; Dwyer, Stacey <Dwyer.Stacey@epa.gov>  
**Subject:** Fwd: DEQ Rule 2 Revision

FYI

Sent from my iPhone  
Begin forwarded message:

**From:** "York, Alan" <alan.york@adeq.state.ar.us>  
**Date:** November 24, 2021 at 11:08:06 AM PST  
**To:** "Maguire, Charles" <maguire.charles@epa.gov>  
**Subject:** DEQ Rule 2 Revision

Charles,

I hope this email finds you well. I just wanted to give you a heads up that DEQ intends to move forward with a Rule 2 Revision at next Friday's APC&EC Hearing.

Rather than retype what we are moving forward with, I have attached (1) a Supplement to DEQ's Responsive Summary regarding the Rule 2 Revision, and (2) an excerpt from the recently released EPA guidance regarding WOTUS.

Please feel free to get in touch next week if we need to discuss.

Thanks,

**Alan J. York** | Associate Director  
**Division of Environmental Quality** | **Office of Water Quality**  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.683.6372 | e: [Alan.York@adeq.state.ar.us](mailto:Alan.York@adeq.state.ar.us)

Message

---

**From:** Ryland, Renea [Ryland.Renea@epa.gov]  
**Sent:** 8/21/2020 8:23:22 PM  
**To:** Moncrieffe, Marcia [Moncrieffe.Marcia@epa.gov]  
**CC:** Nelson, Russell [nelson.russell@epa.gov]  
**Subject:** RE: EPA Complaint Number27R-16-R6: Draft IRA  
**Attachments:** RR comments on 2020.08.21 REVISED DRAFT IRA Complaint No 27R-16-R6.docx

Hi Marcia. I had a few minor edits to the language in A.III. regarding ADEQ's commitment to assign uses to Coffee Creek/Mossy Lake. I've included them in red line. I've also copied Russell to be sure he's OK with them. Otherwise, it looks fine to me. Thanks! Renea

---

**From:** Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>  
**Sent:** Friday, August 21, 2020 2:47 PM  
**To:** Covington, Jeryl <Covington.Jeryl@epa.gov>; Khan, Zahra <Khan.Zahra@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Frey, Sarah <frey.sarah@epa.gov>; Barnett, Cheryl <Barnett.Cheryl@epa.gov>; Vaughn, Gloria <Vaughn.Gloria@epa.gov>; Blanco, Arturo <Blanco.Arturo@epa.gov>; Burrell, Monica <Burrell.Monica@epa.gov>; Brown, Jamesr <brown.jamesr@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>; Nelson, Russell <nelson.russell@epa.gov>  
**Subject:** RE: EPA Complaint Number27R-16-R6: Draft IRA

Thanks Jeryl!

**To R6**, I expect to respond to Jeryl by 10:00 am (CT) on Monday (8/24) and even if you have no comments please let me know so that I can confirm that all comments are included.

A good weekend to all.  
Marcia

---

**From:** Covington, Jeryl <Covington.Jeryl@epa.gov>  
**Sent:** Friday, August 21, 2020 2:32 PM  
**To:** Khan, Zahra <Khan.Zahra@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Frey, Sarah <frey.sarah@epa.gov>; Barnett, Cheryl <Barnett.Cheryl@epa.gov>; Vaughn, Gloria <Vaughn.Gloria@epa.gov>; Blanco, Arturo <Blanco.Arturo@epa.gov>; Burrell, Monica <Burrell.Monica@epa.gov>; Brown, Jamesr <brown.jamesr@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>; Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>; Nelson, Russell <nelson.russell@epa.gov>  
**Subject:** EPA Complaint Number27R-16-R6: Draft IRA

As discussed, attached is the revised IRA for EPA complaint number27R-16-R6.

Please provide comments by Monday, August 24, 2020.

Jeryl W. Covington  
Environmental Protection Specialist  
U.S. Environmental Protection Agency  
Office of General Counsel|External Civil Rights Compliance Office  
1200 Pennsylvania Avenue, N.W.|WJC-North|Rm 2524  
Mail Code: 2310A  
Washington, DC 20460  
Desk: (202) 564-7713  
Fax: (202) 565-0196



covington.jeryl@epa.gov

**To:** Nelson, Russell[nelson.russell@epa.gov]  
**From:** Ryland, Renea[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C297436CC8ED44FBAAD04CC779FED45E-RYLAND, RENEA]  
**Sent:** Tue 11/30/2021 6:17:38 PM (UTC)  
**Subject:** RE: Revised Draft York letter on CC/ML  
[York Exhibit B-1 CCML draft2.docx](#)

Looks great. Here are my thoughts. Thanks!

---

**From:** Nelson, Russell <nelson.russell@epa.gov>  
**Sent:** Tuesday, November 30, 2021 11:18 AM  
**To:** Ryland, Renea <Ryland.Renea@epa.gov>  
**Subject:** Revised Draft York letter on CC/ML  
**Importance:** High

Revised it a bit already....

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

Cell (972) 310-1539  
(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent." B. Ruckelshaus*

---

**From:** Nelson, Russell  
**Sent:** Tuesday, November 30, 2021 11:08 AM  
**To:** Ryland, Renea <[Ryland.Renea@epa.gov](mailto:Ryland.Renea@epa.gov)>  
**Subject:** Draft York letter on CC/ML  
**Importance:** High

Tried to stick with the KISS principle....

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
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Cell (972) 310-1539  
(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent." B. Ruckelshaus*

**To:** Nelson, Russell[nelson.russell@epa.gov]; Ryland, Renea[Ryland.Renea@epa.gov]  
**From:** Wooster, Richard[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=63ADFF6865C44B8D8BE9E40C69E929C2-WOOSTER, RICHARD]  
**Sent:** Thur 8/12/2021 3:22:46 PM (UTC)  
**Subject:** APCEC Roper ltr Admin determination draft 8.11.21\_.docx  
APCEC Roper ltr Admin determination draft 8.11.21\_.docx

Nice job Russell. One little edit to suggest.

r

**To:** Nelson, Russell[nelson.russell@epa.gov]  
**From:** Brundage, Jennifer[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A71CF92B6C90456C98335D1CC3510F67-BRUNDAGE, J]  
**Sent:** Fri 8/13/2021 1:10:39 PM (UTC)  
**Subject:** RE: AR WQS  
APCEC Roper Itr Admin determination draft 8.12.21\_OST.docx

My responses attached, thanks!

---

**From:** Nelson, Russell <nelson.russell@epa.gov>  
**Sent:** Friday, August 13, 2021 9:03 AM  
**To:** Brundage, Jennifer <Brundage.Jennifer@epa.gov>  
**Subject:** RE: AR WQS

Thanks for looking at so quickly. Take a look at my replies and insert any rebuttal and I'll get with Rich and Renea.

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent." B. Ruckelshaus*

---

**From:** Brundage, Jennifer <Brundage.Jennifer@epa.gov>  
**Sent:** Friday, August 13, 2021 7:36 AM  
**To:** Nelson, Russell <[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)>  
**Subject:** RE: AR WQS

Hi Russell,

Please find our suggested edits attached. Please let me know if you have any questions.

Thanks,  
Jenn

---

**From:** Brundage, Jennifer  
**Sent:** Thursday, August 12, 2021 4:23 PM  
**To:** Nelson, Russell <[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)>  
**Subject:** RE: AR WQS

Thanks Russell, I'll try and get back to you tomorrow. It doesn't sound like Regions 2 and 3 have actually drafted a letter, and they may end up having the conversation verbally. I guess what I sent you was a snippet of language they have agreed on.

---

**From:** Nelson, Russell <[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)>  
**Sent:** Thursday, August 12, 2021 2:44 PM  
**To:** Brundage, Jennifer <Brundage.Jennifer@epa.gov>  
**Subject:** FW: AR WQS  
**Importance:** High

Slight edit....

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent." B. Ruckelshaus*

---

**From:** Nelson, Russell  
**Sent:** Thursday, August 12, 2021 1:20 PM  
**To:** Brundage, Jennifer <[Brundage.Jennifer@epa.gov](mailto:Brundage.Jennifer@epa.gov)>  
**Subject:** RE: AR WQS  
**Importance:** High

Hey Jenn, I'd like to see the letter from Regions 2 & 3 if you can send it. Might change our whole approach. In the meantime, here's a draft that I wrote with a minor edit from Richard and the inclusion of language related to the Title VI complaint I wanted to leave to Renea. If OST has any suggestions or wants to draw anything in from the other letter I would need it by COB Monday/Tuesday morning if that's not too much to ask. I need to see it ASAP since this may be signed by the Acting RA and it's hard to get on his calendar for a briefing.

*Russell*

Russell Nelson  
Regional Water Quality Standards Coordinator  
Water Quality Protection (WDPQ)  
U.S. EPA, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

(214) 665-6646  
[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)

*"Follow the law. Follow the science. And be transparent." B. Ruckelshaus*

---

**From:** Brundage, Jennifer <[Brundage.Jennifer@epa.gov](mailto:Brundage.Jennifer@epa.gov)>  
**Sent:** Thursday, August 12, 2021 11:02 AM  
**To:** Nelson, Russell <[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)>  
**Subject:** RE: AR WQS

Hi Russell,

Thanks again for taking the time to update me earlier on the region's next steps. Erica says "I just recommend making clear that regions can't make ADs, so the most a letter from a region could say is that they'd be recommending to HQ (the Administrator) that he make an AD."

She also shared this draft language that R2/R3 have developed for a letter they are planning to send in the near future on a similar issue, in case it is a helpful template for you:  
If DRBC does not complete its attainability analysis by 3/2022, Regions 2 & 3 will recommend that the EPA Administrator make a CWA section 303(c)(4)(B) determination and proceed with development of federal rule to propose a revised designated use on DRBC's behalf.

Thanks,  
Jenn

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**From:** Nelson, Russell <[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)>  
**Sent:** Tuesday, August 10, 2021 10:43 AM  
**To:** Brundage, Jennifer <[Brundage.Jennifer@epa.gov](mailto:Brundage.Jennifer@epa.gov)>  
**Subject:** RE: AR WQS

Jenn,

Since ECRCO just relayed ADEQ's response to the EPA comments on the Coffee Creek/Mossy Lake designated use issue, if that's what you want to call what they sent since they ignored our substantive comments, we are meeting at the branch level today with ORC to decide how to respond to the Region 6 representative to ECRCO who reports directly to the Acting RA on the subject. Renea and I agree that ADEQ is taking essentially taking the same position they have taken in recent years: 1) that what EPA and the public consider Coffee Creek is not really Coffee Creek, 2) Mossy Lake is not a WOTUS because it is a part of GP Crossett's waste treatment system, and 3) no changes to designated uses for Mossy Lake and most of Coffee Creek are needed. EPA has historically disagreed with ADEQ on all 3 points.

There are several ways to go here. We can relay to the acting RA and ECRCO that we don't think ADEQ adequately responded to the Informal Resolution Agreement with the expectation of getting direction from our management chain on next steps. Depending on what the process is through ECRCO, I will likely suggest that we write a letter to ADEQ or directly to the Commission outlining the possibility of granting the petition and an Administrator finding in response to the final draft, or reserve that as part of our action in response to the eventual submission of Arkansas's triennial since it will not include designated uses for WOTUS that are clearly required.

I'll keep you up on what happens.

*Russell*

Russell Nelson  
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**From:** Brundage, Jennifer <[Brundage.Jennifer@epa.gov](mailto:Brundage.Jennifer@epa.gov)>  
**Sent:** Tuesday, August 10, 2021 8:54 AM  
**To:** Nelson, Russell <[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)>  
**Subject:** RE: AR WQS

Hi Russell,

Thanks for the update. I've updated the TR tracker to 12/31/21 as the anticipated submission date. It seems likely that Outachita Riverkeeper will turn that old draft into a real NOI before long, don't you think? Have you all had any calls with them lately?

Thanks,  
Jenn

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**From:** Nelson, Russell <[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)>  
**Sent:** Monday, August 9, 2021 6:28 PM  
**To:** Brundage, Jennifer <[Brundage.Jennifer@epa.gov](mailto:Brundage.Jennifer@epa.gov)>  
**Subject:** FW: AR WQS

Hi Jenn,

As you can see from the email from Mary, ADEQ has filed their proposed standards with the Commission and they should be heard on August 27<sup>th</sup>.

The revised standards do not include proposals for Coffee Creek and Mossy Lake. I will be busy gathering information for our Acting RA regarding the Title VI complaint since one of ADEQ's commitments in the Resolution Agreement was to respond to EPA comments prior to filing with the Commission. Not only did ADEQ not propose any designated uses for Coffee Creek and Mossy Lake, but the responses didn't address all our comments. Just speculating, but depending on how things go with this Title VI complaint, we may be looking at asking for a Administrator's Finding on these waters if the final submission in November/December doesn't address the issue.

*Russell*

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**From:** Barnett, Mary <[BARNETT@adeq.state.ar.us](mailto:BARNETT@adeq.state.ar.us)>  
**Sent:** Monday, August 9, 2021 3:15 PM  
**To:** Nelson, Russell <[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)>  
**Cc:** Martin, Joe <[Joe.Martin@adeq.state.ar.us](mailto:Joe.Martin@adeq.state.ar.us)>  
**Subject:** AR WQS

Russell,

The motion to adopt Rule 2 has been filed with the APC&E Commission.  
<https://www.adeq.state.ar.us/regs/drafts/reg02/20-004-R/>

- a. APC& E Commission meeting – August 27, 2021

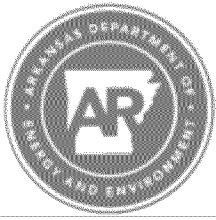
If adopted by APC&EC:

- b. Legislative Committees Review
  - i. Public Health, Welfare and Labor Committee – October 4, 2021
  - ii. Administrative Rules Committee - October 12, 2021

If approved by legislative committees:

- c. Final State Action – October/November 2021
- d. Submit to EPA – November/December 2021

**Mary Barnett** | Ecologist Coordinator  
Division of Environmental Quality | Office of Water Quality  
Water Quality Planning Branch  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.682.0666 | e: [barnett@adeq.state.ar.us](mailto:barnett@adeq.state.ar.us)



# ARKANSAS

ENERGY & ENVIRONMENT



**To:** Nelson, Russell[nelson.russell@epa.gov]; Wooster, Richard[Wooster.Richard@epa.gov]  
**From:** Ryland, Renea[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C297436CC8ED44FBAAD04CC779FED45E-RYLAND, RENEA]  
**Sent:** Thur 8/12/2021 4:55:19 PM (UTC)  
**Subject:** RE: First cut letter to APCEC  
APCEC Roper Itr Admin determination draft 8.11.21 .docx

Thanks Russell. The letter looks great to me also. I had a couple of minor edits – and I suggested possible language to acknowledge ADEQ’s response to our comments and to go on record that we disagree. See what you think. I think I’ve worded it so that we don’t say one way or the other whether we think ADEQ’s response complied with the commitment under the resolution agreement, just that it was received pursuant to that agreement. Thanks. Renea

---

**From:** Nelson, Russell <nelson.russell@epa.gov>  
**Sent:** Thursday, August 12, 2021 11:18 AM  
**To:** Wooster, Richard <Wooster.Richard@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>  
**Subject:** FW: First cut letter to APCEC

Richard and Renea,

Although this letter doesn’t specifically commit EPA and will only indicate that EPA is considering recommending an Administrator’s determination, either after granting the petition or directly, OST will need to look at the language. Although we’re only saying EPA is considering determination and not committing to anything, Jenn will need to brief Erica and Corey so they can make others up their CoC aware if the Commission or Becky Keogh reacts by contacting HQ. I have explained the short time frame in getting this to the Commission before August 27<sup>th</sup> and that OST will have a very short time for review/comment.

*Russell*

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**From:** Nelson, Russell  
**Sent:** Wednesday, August 11, 2021 5:13 PM  
**To:** Wooster, Richard <Wooster.Richard@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>  
**Subject:** First cut letter to APCEC

It wasn’t clear who was doing what, so I took a simplistic first cut to get things started. May not want to refer to the petition, may want to add something on ADEQ’s response to the specific DEQ commitment in the Informal Resolution Agreement.

*Russell*

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**To:** goffpatti@adeq.state.ar.us[goffpatti@adeq.state.ar.us]  
**From:** Nelson, Russell[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E27FA59F166C40DEAAB3D866285A30BB-NELSON, RUSSELL]  
**Sent:** Tue 8/24/2021 4:58:57 PM (UTC)  
**Subject:** Environmental Protection Agency letter to Richard Roper, APC&EC  
APCEC Roper ltr Admin determination 8.23.21.pdf

Ms. Goff,

Please find the attached letter from Charles Maguire, Director, Water Division, Environmental Protection Agency, Region 6 to Richard Roper, Chair, Arkansas Pollution Control and Ecology Commission regarding potential Environmental Protection Agency action regarding appropriate water quality standards for waters in Arkansas.

If you have any questions concerning the attached letter, please feel free to contact me via return email.

Thank you,

Russell Nelson  
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**To:** Nelson, Russell[nelson.russell@epa.gov]  
**From:** Moulton, Charles[MOULTON@adeq.state.ar.us]  
**Sent:** Thur 8/26/2021 4:06:15 PM (UTC)  
**Subject:** RE: Arkansas Pollution Control and Ecology Commission August 2021 Meeting

Mr. Russell –

At present the Rule 2 ball is in DEQ's court. My understanding is that DEQ plans to caucus with Region 6 soon to determine whether a resolution can be reached.

Whether or not there is an effort to place Rule 2 on the September agenda is, ultimately, up to DEQ because they are the entity that requested the Commission to initiate the rulemaking. The Commission won't unilaterally place the matter on an agenda without a request to do so.

Correspondence through Ms. Goff would be best, particularly if the issue is exigent. Oftentimes I am in the midst of conducting hearings and it may take a while for me to catch up on email correspondence.

And my apologies. It slipped past me that you sent the email but were not the author of the letter.

Best,

**Charles Moulton** | Administrative Law Judge  
**Energy & Environment** | **Pollution Control & Ecology Commission**  
3800 Richards Road | North Little Rock, AR 72117  
t: 501.682.7890 | f: 501.682.7891 | e: [moulton@adeq.state.ar.us](mailto:moulton@adeq.state.ar.us)  
[www.adeq.state.ar.us/commission/](http://www.adeq.state.ar.us/commission/)



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**From:** Nelson, Russell [mailto:[nelson.russell@epa.gov](mailto:nelson.russell@epa.gov)]  
**Sent:** Thursday, August 26, 2021 10:38 AM  
**To:** Moulton, Charles  
**Cc:** Richard Roper  
**Subject:** RE: Arkansas Pollution Control and Ecology Commission August 2021 Meeting

Mr. Moulton,

Thank you for the notification of the receipt of Charles Maguire's letter to Commissioner Roper and of the removal of ADEQ's proposed revisions to Regulation 2 from the August 27<sup>th</sup> Commission agenda. Do you anticipate ADEQ's proposed revisions to Regulation 2 to be addressed during the Commission will next meet on September 24<sup>th</sup>? In addition, if future correspondence directly with the Commission be necessary, should it be directed through you or Ms. Goff?

Regards,

Russell Nelson  
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